

In the Senate of the United States,

February 2, 2000.

Resolved, That the bill from the House of Representatives (H.R. 833) entitled “An Act to amend title 11 of the United States Code, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
3 *“Bankruptcy Reform Act of 2000”.*

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

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

Sec. 103. Findings and study.

Sec. 104. Notice of alternatives.

Sec. 105. Debtor financial management training test program.

Sec. 106. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

- Sec. 201. Promotion of alternative dispute resolution.*
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

- Sec. 211. Definition of domestic support obligation.*
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

- Sec. 221. Amendments to discourage abusive bankruptcy filings.*
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 301. Reinforcement of the fresh start.*
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.

- Sec. 320. Prompt relief from stay in individual cases.*
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 323. Clarification of postpetition wages and benefits.
Sec. 324. Limitation.
Sec. 325. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 326. United States trustee program filing fee increase.
Sec. 327. Compensation of trustees in certain cases under chapter 7 of title 11, United States Code.
Sec. 328. Nondischargeability of debts incurred through the commission of violence at clinics.

**TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY
PROVISIONS**

Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Rolling stock equipment.*
Sec. 402. Adequate protection for investors.
Sec. 403. Meetings of creditors and equity security holders.
Sec. 404. Protection of refinancing of security interest.
Sec. 405. Executory contracts and unexpired leases.
Sec. 406. Creditors and equity security holders committees.
Sec. 407. Amendment to section 546 of title 11, United States Code.
Sec. 408. Limitation.
Sec. 409. Amendment to section 330(a) of title 11, United States Code.
Sec. 410. Postpetition disclosure and solicitation.
Sec. 411. Preferences.
Sec. 412. Venue of certain proceedings.
Sec. 413. Period for filing plan under chapter 11.
Sec. 414. Fees arising from certain ownership interests.
Sec. 415. Creditor representation at first meeting of creditors.
Sec. 416. Definition of disinterested person.
Sec. 417. Factors for compensation of professional persons.
Sec. 418. Appointment of elected trustee.
Sec. 419. Utility service.
Sec. 420. Bankruptcy fees.
Sec. 421. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

- Sec. 431. Flexible rules for disclosure statement and plan.*
Sec. 432. Definitions; effect of discharge.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.

- Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.*
- Sec. 444. Payment of interest.*
- Sec. 445. Technical correction.*

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.*
- Sec. 502. Applicability of other sections to chapter 9.*

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

- Sec. 601. Audit procedures.*
- Sec. 602. Improved bankruptcy statistics.*
- Sec. 603. Uniform rules for the collection of bankruptcy data.*
- Sec. 604. Sense of Congress regarding availability of bankruptcy data.*

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.*
- Sec. 702. Treatment of fuel tax claims.*
- Sec. 703. Notice of request for a determination of taxes.*
- Sec. 704. Rate of interest on tax claims.*
- Sec. 705. Priority of tax claims.*
- Sec. 706. Priority property taxes incurred.*
- Sec. 707. No discharge of fraudulent taxes in chapter 13.*
- Sec. 708. No discharge of fraudulent taxes in chapter 11.*
- Sec. 709. Stay of tax proceedings limited to prepetition taxes.*
- Sec. 710. Periodic payment of taxes in chapter 11 cases.*
- Sec. 711. Avoidance of statutory tax liens prohibited.*
- Sec. 712. Payment of taxes in the conduct of business.*
- Sec. 713. Tardily filed priority tax claims.*
- Sec. 714. Income tax returns prepared by tax authorities.*
- Sec. 715. Discharge of the estate's liability for unpaid taxes.*
- Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.*
- Sec. 717. Standards for tax disclosure.*
- Sec. 718. Setoff of tax refunds.*
- Sec. 719. Special provisions related to the treatment of State and local taxes.*
- Sec. 720. Dismissal for failure to timely file tax returns.*

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.*
- Sec. 802. Amendments to other chapters in title 11, United States Code.*
- Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.*

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Bankruptcy Code amendments.*
- Sec. 902. Damage measure.*
- Sec. 903. Asset-backed securitizations.*
- Sec. 904. Effective date; application of amendments.*

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

- Sec. 1001. Reenactment of chapter 12.*

- Sec. 1002. Debt limit increase.*
Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1004. Certain claims owed to governmental units.
Sec. 1005. Prohibition of retroactive assessment of disposable income.
Sec. 1006. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

- Sec. 1101. Definitions.*
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Establishment of policy and protocols relating to bankruptcies of health care businesses.
Sec. 1107. Exclusion from program participation not subject to automatic stay.

TITLE XII—AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938

- Sec. 1201. Minimum wage.*
Sec. 1202. Regular rate for overtime purposes.

TITLE XIII—TAX RELIEF

- Sec. 1300. Amendment of 1986 code.*

Subtitle A—Small Business Tax Relief

- Sec. 1301. Increase in expensing limitation to \$30,000.*
Sec. 1302. Repeal of temporary unemployment tax.
Sec. 1303. Full deduction of health insurance costs for self-employed individuals.
Sec. 1304. Permanent extension of work opportunity tax credit.
Sec. 1305. Small businesses allowed increased deduction for meal and entertainment expenses.

Subtitle B—Deduction for Health and Long-Term Care Insurance

- Sec. 1311. Deduction for health and long-term care insurance costs of individuals not participating in employer-subsidized health plans.*

Subtitle C—Pension Tax Relief

PART I—EXPANDING COVERAGE

- Sec. 1321. Increase in benefit and contribution limits.*
Sec. 1322. Plan loans for subchapter s owners, partners, and sole proprietors.
Sec. 1323. Modification of top-heavy rules.
Sec. 1324. Elective deferrals not taken into account for purposes of deduction limits.
Sec. 1325. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 1326. Elimination of user fee for requests to IRS regarding pension plans.
Sec. 1327. Deduction limits.
Sec. 1328. Option to treat elective deferrals as after-tax contributions.

PART II—ENHANCING FAIRNESS FOR WOMEN

- Sec. 1331. Catchup contributions for individuals age 50 or over.*
- Sec. 1332. Equitable treatment for contributions of employees to defined contribution plans.*
- Sec. 1333. Faster vesting of certain employer matching contributions.*
- Sec. 1334. Simplify and update the minimum distribution rules.*
- Sec. 1335. Clarification of tax treatment of division of section 457 plan benefits upon divorce.*
- Sec. 1336. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.*

PART III—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 1341. Rollovers allowed among various types of plans.*
- Sec. 1342. Rollovers of IRAs into workplace retirement plans.*
- Sec. 1343. Rollovers of after-tax contributions.*
- Sec. 1344. Hardship exception to 60-day rule.*
- Sec. 1345. Treatment of forms of distribution.*
- Sec. 1346. Rationalization of restrictions on distributions.*
- Sec. 1347. Purchase of service credit in governmental defined benefit plans.*
- Sec. 1348. Employers may disregard rollovers for purposes of cash-out amounts.*
- Sec. 1349. Minimum distribution and inclusion requirements for section 457 plans.*

PART IV—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 1351. Repeal of 150 percent of current liability funding limit.*
- Sec. 1352. Maximum contribution deduction rules modified and applied to all defined benefit plans.*
- Sec. 1353. Excise tax relief for sound pension funding.*
- Sec. 1354. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.*
- Sec. 1355. Protection of investment of employee contributions to 401(K) plans.*
- Sec. 1356. Treatment of multiemployer plans under section 415.*

PART V—REDUCING REGULATORY BURDENS

- Sec. 1361. Modification of timing of plan valuations.*
- Sec. 1362. ESOP dividends may be reinvested without loss of dividend deduction.*
- Sec. 1363. Repeal of transition rule relating to certain highly compensated employees.*
- Sec. 1364. Employees of tax-exempt entities.*
- Sec. 1365. Clarification of treatment of employer-provided retirement advice.*
- Sec. 1366. Reporting simplification.*
- Sec. 1367. Improvement of employee plans compliance resolution system.*
- Sec. 1368. Modification of exclusion for employer-provided transit passes.*
- Sec. 1369. Repeal of the multiple use test.*
- Sec. 1370. Flexibility in nondiscrimination, coverage, and line of business rules.*
- Sec. 1371. Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local plans.*

PART VI—PLAN AMENDMENTS

- Sec. 1381. Provisions relating to plan amendments.*

Subtitle D—Revenue Provisions

- Sec. 1391. Modification of installment method and repeal of installment method for accrual method taxpayers.*
- Sec. 1392. Modification of estimated tax rules for closely held real estate investment trusts.*

TITLE XIV—TECHNICAL AMENDMENTS

- Sec. 1401. Definitions.*
- Sec. 1402. Adjustment of dollar amounts.*
- Sec. 1403. Extension of time.*
- Sec. 1404. Technical amendments.*
- Sec. 1405. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.*
- Sec. 1406. Limitation on compensation of professional persons.*
- Sec. 1407. Effect of conversion.*
- Sec. 1408. Allowance of administrative expenses.*
- Sec. 1409. Exceptions to discharge.*
- Sec. 1410. Effect of discharge.*
- Sec. 1411. Protection against discriminatory treatment.*
- Sec. 1412. Property of the estate.*
- Sec. 1413. Preferences.*
- Sec. 1414. Postpetition transactions.*
- Sec. 1415. Disposition of property of the estate.*
- Sec. 1416. General provisions.*
- Sec. 1417. Abandonment of railroad line.*
- Sec. 1418. Contents of plan.*
- Sec. 1419. Discharge under chapter 12.*
- Sec. 1420. Bankruptcy cases and proceedings.*
- Sec. 1421. Knowing disregard of bankruptcy law or rule.*
- Sec. 1422. Transfers made by nonprofit charitable corporations.*
- Sec. 1423. Protection of valid purchase money security interests.*
- Sec. 1424. Extensions.*
- Sec. 1425. Bankruptcy judgeships.*
- Sec. 1426. Family fishermen.*
- Sec. 1427. Compensating trustees.*
- Sec. 1428. Amendment to section 362 of title 11, United States Code.*
- Sec. 1429. Provision of electronic FTC pamphlet with electronic credit card applications and solicitations.*
- Sec. 1430. No bankruptcy for insolvent political committees.*
- Sec. 1431. Federal election law fines and penalties as nondischargeable debt.*
- Sec. 1432. Prohibition on certain retroactive finance charges.*
- Sec. 1433. Sense of Senate concerning credit worthiness.*
- Sec. 1434. Judicial education.*
- Sec. 1435. United States trustee program filing fee increase.*
- Sec. 1436. Providing requested tax documents to the court.*
- Sec. 1437. Definition of family farmer.*
- Sec. 1438. Encouraging creditworthiness.*
- Sec. 1439. Property no longer subject to redemption.*
- Sec. 1440. Availability of toll-free access to information.*

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

- Sec. 1501. Effective date; application of amendments.*

TITLE XVI—FINANCIAL INSTITUTIONS INSOLVENCY IMPROVEMENT

- Sec. 1601. Short title.*
Sec. 1602. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 1603. Authority of the corporation with respect to failed and failing institutions.
Sec. 1604. Amendments relating to transfers of qualified financial contracts.
Sec. 1605. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 1606. Clarifying amendment relating to master agreements.
Sec. 1607. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 1608. Recordkeeping requirements.
Sec. 1609. Exemptions from contemporaneous execution requirement.
Sec. 1610. SIPC stay.
Sec. 1611. Federal Reserve collateral requirements.
Sec. 1612. Effective date; application of amendments.

TITLE XVII—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES

- Sec. 1701. Short title.*

Subtitle A—Methamphetamine Production, Trafficking, and Abuse

CHAPTER 1—CRIMINAL PENALTIES

- Sec. 1711. Enhanced punishment of amphetamine laboratory operations.*
Sec. 1712. Enhanced punishment of amphetamine or methamphetamine laboratory operators.
Sec. 1713. Mandatory restitution for violations of Controlled Substances Act and Controlled Substances Import and Export Act relating to amphetamine and methamphetamine.
Sec. 1714. Methamphetamine paraphernalia.

CHAPTER 2—ENHANCED LAW ENFORCEMENT

- Sec. 1721. Environmental hazards associated with illegal manufacture of amphetamine and methamphetamine.*
Sec. 1722. Reduction in retail sales transaction threshold for non-safe harbor products containing pseudoephedrine or phenylpropanolamine.
Sec. 1723. Training for Drug Enforcement Administration and State and local law enforcement personnel relating to clandestine laboratories.
Sec. 1724. Combating methamphetamine and amphetamine in high intensity drug trafficking areas.
Sec. 1725. Combating amphetamine and methamphetamine manufacturing and trafficking.

CHAPTER 3—ABUSE PREVENTION AND TREATMENT

- Sec. 1731. Expansion of methamphetamine research.*
Sec. 1732. Methamphetamine and amphetamine treatment initiative by Center for Substance Abuse Treatment.
Sec. 1733. Expansion of methamphetamine abuse prevention efforts.
Sec. 1734. Study of methamphetamine treatment.

CHAPTER 4—REPORTS

- Sec. 1741. Reports on consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.*
- Sec. 1742. Report on diversion of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products.*

Subtitle B—Controlled Substances Generally

CHAPTER 1—CRIMINAL MATTERS

- Sec. 1751. Enhanced punishment for trafficking in list I chemicals.*
- Sec. 1752. Mail order requirements.*
- Sec. 1753. Increased penalties for distributing drugs to minors.*
- Sec. 1754. Increased penalty for drug trafficking in or near a school or other protected location.*
- Sec. 1755. Advertisements for drug paraphernalia and schedule I controlled substances.*
- Sec. 1756. Theft and transportation of anhydrous ammonia for purposes of illicit production of controlled substances.*
- Sec. 1757. Criminal prohibition on distribution of certain information relating to the manufacture of controlled substances.*

CHAPTER 2—OTHER MATTERS

- Sec. 1761. Waiver authority for physicians who dispense or prescribe certain narcotic drugs for maintenance treatment or detoxification treatment.*

Subtitle C—Cocaine Powder

- Sec. 1771. Short title.*
- Sec. 1772. Sentencing for violations involving cocaine powder.*

Subtitle D—Education Matters

- Sec. 1781. Safe schools.*
- Sec. 1782. Student safety and family school choice.*
- Sec. 1783. Transfer of revenues.*

Subtitle E—Miscellaneous

- Sec. 1791. Notice; clarification.*
- Sec. 1792. Domestic terrorism assessment and recovery.*
- Sec. 1793. Antidrug messages on Federal Government Internet websites.*
- Sec. 1794. State schools.*
- Sec. 1795. Student safety and family school choice.*
- Sec. 1796. Transfer of revenues.*
- Sec. 1797. Increased penalties for distributing drugs to minors.*
- Sec. 1798. Increased penalty for drug trafficking in or near a school or other protected location.*
- Sec. 1799. Severability.*

TITLE XVIII—PROTECTION FROM THE IMPACT OF BANKRUPTCY OF CERTAIN ELECTRIC UTILITIES

- Sec. 1801. Short title.*

Sec. 1802. Findings and purposes.
Sec. 1803. Unlawful contract and amended contract.
Sec. 1804. Exclusive enforcement.

TITLE XIX—CONSUMER CREDIT DISCLOSURE

Sec. 1901. Enhanced disclosures under an open end credit plan.
Sec. 1902. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1903. Disclosures related to “introductory rates”.
Sec. 1904. Internet-based credit card solicitations.
Sec. 1905. Disclosures related to late payment deadlines and penalties.
Sec. 1906. Prohibition on certain actions for failure to incur finance charges.
Sec. 1907. Dual use debit card.
Sec. 1908. Study of bankruptcy impact of credit extended to dependent students.

1 **TITLE I—NEEDS-BASED**
 2 **BANKRUPTCY**

3 **SEC. 101. CONVERSION.**

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

6 **SEC. 102. DISMISSAL OR CONVERSION.**

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

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

11 **“§ 707. Dismissal of a case or conversion to a case**
 12 **under chapter 11 or 13”;**

13 and

14 (2) in subsection (b)—

15 (A) by inserting “(1)” after “(b)”;

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

18 (i) in the first sentence—

1 (I) by striking “but not at the re-
2 quest or suggestion” and inserting “,
3 panel trustee or”;

4 (II) by inserting “, or, with the
5 debtor’s consent, convert such a case to
6 a case under chapter 11 or 13 of this
7 title,” after “consumer debts”; and

8 (III) by striking “substantial
9 abuse” and inserting “abuse”; and

10 (ii) by striking the next to last sen-
11 tence; and

12 (C) by adding at the end the following:

13 “(2)(A)(i) In considering under paragraph (1) whether
14 the granting of relief would be an abuse of the provisions
15 of this chapter, the court shall presume abuse exists if the
16 debtor’s current monthly income reduced by the amounts
17 determined under clauses (ii), (iii), and (iv), and multi-
18 plied by 60 is not less than the lesser of—

19 “(I) 25 percent of the debtor’s nonpriority unse-
20 cured claims in the case; or

21 “(II) \$15,000.

22 “(ii)(I) The debtor’s monthly expenses shall be the ap-
23 plicable monthly (excluding payments for debts) expenses
24 under standards issued by the Internal Revenue Service for
25 the area in which the debtor resides, as in effect on the date

1 *of the entry of the order for relief, for the debtor, the depend-*
2 *ents of the debtor, and the spouse of the debtor in a joint*
3 *case, if the spouse is not otherwise a dependent. In addition,*
4 *the debtor’s monthly expenses shall include the debtor’s rea-*
5 *sonably necessary expenses incurred to maintain the safety*
6 *of the debtor and the family of the debtor from family vio-*
7 *lence as identified under section 309 of the Family Violence*
8 *Prevention and Services Act (42 U.S.C. 10408), or other*
9 *applicable Federal law. The expenses included in the debt-*
10 *or’s monthly expenses described in the preceding sentence*
11 *shall be kept confidential by the court.*

12 “(II) *In addition, the debtor’s monthly expenses may*
13 *include, if applicable, the continuation of actual expenses*
14 *paid by the debtor that are reasonable and necessary for*
15 *care and support of an elderly, chronically ill, or disabled*
16 *household member or member of the debtor’s immediate*
17 *family (including parents, grandparents, and siblings of the*
18 *debtor, the dependents of the debtor, and the spouse of the*
19 *debtor in a joint case) who is not a dependent and who*
20 *is unable to pay for such reasonable and necessary expenses.*

21 “(iii) *The debtor’s average monthly payments on ac-*
22 *count of secured debts shall be calculated as—*

23 “(I) *the sum of—*

24 “(aa) *the total of all amounts scheduled as*
25 *contractually due to secured creditors in each*

1 *month of the 60 months following the date of the*
2 *petition; and*

3 “(bb) *any additional payments to secured*
4 *creditors necessary for the debtor, in filing a*
5 *plan under chapter 13 of this title, to maintain*
6 *possession of the debtor’s primary residence,*
7 *motor vehicle, or other property necessary for the*
8 *support of the debtor and the debtor’s depend-*
9 *ents, that serves as collateral for secured debts;*
10 *divided by*

11 “(II) 60.

12 “(iv) *The debtor’s expenses for payment of all priority*
13 *claims (including priority child support and alimony*
14 *claims) shall be calculated as—*

15 “(I) *the total amount of debts entitled to pri-*
16 *ority; divided by*

17 “(II) 60.

18 “(B)(i) *In any proceeding brought under this sub-*
19 *section, the presumption of abuse may be rebutted by dem-*
20 *onstrating special circumstances that justify additional ex-*
21 *penses or adjustments of current monthly total income. In*
22 *order to establish special circumstances, the debtor shall be*
23 *required to—*

24 “(I) *itemize each additional expense or adjust-*
25 *ment of income; and*

1 “(II) provide—

2 “(aa) documentation for such expenses; and

3 “(bb) a detailed explanation of the special
4 circumstances that make such expenses necessary
5 and reasonable.

6 “(ii) The debtor, and the attorney for the debtor if the
7 debtor has an attorney, shall attest under oath to the accu-
8 racy of any information provided to demonstrate that addi-
9 tional expenses or adjustments to income are required.

10 “(iii) The presumption of abuse may be rebutted if the
11 additional expenses or adjustments to income referred to in
12 clause (i) cause the product of the debtor’s current monthly
13 income reduced by the amounts determined under clauses
14 (ii), (iii), and (iv) of subparagraph (A) multiplied by 60
15 to be less than the lesser of—

16 “(I) 25 percent of the debtor’s nonpriority unse-
17 cured claims; or

18 “(II) \$15,000.

19 “(C)(i) As part of the schedule of current income and
20 expenditures required under section 521, the debtor shall in-
21 clude a statement of the debtor’s current monthly income,
22 and the calculations that determine whether a presumption
23 arises under subparagraph (A)(i), that shows how each such
24 amount is calculated.

1 “(ii) *The Supreme Court shall promulgate rules under*
2 *section 2075 of title 28, that prescribe a form for a state-*
3 *ment under clause (i) and may provide general rules on*
4 *the content of the statement.*

5 “(3) *In considering under paragraph (1) whether the*
6 *granting of relief would be an abuse of the provisions of*
7 *this chapter in a case in which the presumption in subpara-*
8 *graph (A)(i) of such paragraph does not apply or has been*
9 *rebutted, the court shall consider—*

10 “(A) *whether the debtor filed the petition in bad*
11 *faith; or*

12 “(B) *the totality of the circumstances (including*
13 *whether the debtor seeks to reject a personal services*
14 *contract and the financial need for such rejection as*
15 *sought by the debtor) of the debtor’s financial situa-*
16 *tion demonstrates abuse.”.*

17 (b) *DEFINITION.—Title 11, United States Code, is*
18 *amended—*

19 (1) *in section 101, by inserting after paragraph*
20 *(10) the following:*

21 “(10A) *‘current monthly income’—*

22 “(A) *means the average monthly income*
23 *from all sources which the debtor, or in a joint*
24 *case, the debtor and the debtor’s spouse, receive*
25 *without regard to whether the income is taxable*

1 income, derived during the 180-day period pre-
2 ceding the date of determination; and

3 “(B) includes any amount paid by any en-
4 tity other than the debtor (or, in a joint case, the
5 debtor and the debtor’s spouse), on a regular
6 basis to the household expenses of the debtor or
7 the debtor’s dependents (and, in a joint case, the
8 debtor’s spouse if not otherwise a dependent), but
9 excludes benefits received under the Social Secu-
10 rity Act;” and

11 (2) in section 704—

12 (A) by inserting “(a)” before “The trustee
13 shall—”; and

14 (B) by adding at the end the following:

15 “(b)(1) With respect to an individual debtor under this
16 chapter—

17 “(A) the United States trustee or bankruptcy ad-
18 ministrators shall review all materials filed by the
19 debtor and, not later than 10 days before the first
20 meeting of creditors, file with the court a statement
21 as to whether the debtor’s case would be presumed to
22 be an abuse under section 707(b); and

23 “(B) not later than 5 days after receiving a
24 statement under subparagraph (A), the court shall
25 provide a copy of the statement to all creditors.

1 “(2) *The United States trustee or bankruptcy adminis-*
2 *trator shall not later than 30 days after receiving a state-*
3 *ment filed under paragraph (1) file a motion to dismiss*
4 *or convert under section 707(b), or file a statement setting*
5 *forth the reasons the United States trustee or bankruptcy*
6 *administrator does not believe that such a motion would*
7 *be appropriate, if based on the filing of such statement with*
8 *the court, the United States trustee or bankruptcy adminis-*
9 *trator determines that the debtor’s case should be presumed*
10 *to be an abuse under section 707(b) and the product of the*
11 *debtor’s current monthly income, multiplied by 12 is not*
12 *less than—*

13 “(A) *the highest national or applicable State me-*
14 *dian family income reported for a family of equal or*
15 *lesser size, whichever is greater; or*

16 “(B) *in the case of a household of 1 person, the*
17 *national or applicable State median household income*
18 *for 1 earner, whichever is greater.*

19 “(3) *In any case in which a motion to dismiss or con-*
20 *vert, or a statement is required to be filed by this subsection,*
21 *the United States trustee or bankruptcy administrator may*
22 *decline to file a motion to dismiss or convert pursuant to*
23 *section 704(b)(2) or if the product of the debtor’s current*
24 *monthly income multiplied by 12—*

1 “(A)(i) exceeds 100 percent, but does not exceed
2 150 percent of the national or applicable State me-
3 dian household income reported for a household of
4 equal size, whichever is greater; or

5 “(ii) in the case of a household of 1 person, ex-
6 ceeds 100 percent but does not exceed 150 percent of
7 the national or applicable State median household in-
8 come reported for 1 earner, whichever is greater; and

9 “(B) the product of the debtor’s current monthly
10 income (reduced by the amounts determined under
11 section 707(b)(2)(A)(ii)) (except for the amount cal-
12 culated under the other necessary expenses standard
13 issued by the Internal Revenue Service and section
14 707(b)(2)(A) (iii) and (iv)) multiplied by 60 is less
15 than the greater of—

16 “(i) 25 percent of the debtor’s nonpriority
17 unsecured claims in the case; or

18 “(ii) \$15,000.

19 “(4)(A) The court shall order the counsel for the debtor
20 to reimburse the panel trustee for all reasonable costs in
21 prosecuting a motion brought under section 707(b), includ-
22 ing reasonable attorneys’ fees, if—

23 “(i) a panel trustee appointed under section
24 586(a)(1) of title 28 brings a motion for dismissal or
25 conversion under this subsection; and

1 “(ii) the court—

2 “(I) grants that motion; and

3 “(II) finds that the action of the counsel for
4 the debtor in filing under this chapter was frivo-
5 lous.

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

8 “(i) the assessment of an appropriate civil pen-
9 alty against the counsel for the debtor; and

10 “(ii) the payment of the civil penalty to the
11 panel trustee or the United States trustee.

12 “(C) In the case of a petition referred to in subpara-
13 graph (B), the signature of an attorney shall constitute a
14 certificate that the attorney has—

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

17 “(ii) determined that the petition—

18 “(I) is well grounded in fact; and

19 “(II) is warranted by existing law or a
20 good faith argument for the extension, modifica-
21 tion, or reversal of existing law and does not
22 constitute an abuse under paragraph (1).

23 “(5)(A) Except as provided in subparagraph (B) and
24 subject to paragraph (6), the court may award a debtor all
25 reasonable costs in contesting a motion brought by a party

1 *in interest (other than a panel trustee or United States*
2 *trustee) under this subsection (including reasonable attor-*
3 *neys' fees) if—*

4 “(i) *the court does not grant the motion; and*

5 “(ii) *the court finds that—*

6 “(I) *the position of the party that brought*
7 *the motion was not substantially justified; or*

8 “(II) *the party brought the motion solely for*
9 *the purpose of coercing a debtor into waiving a*
10 *right guaranteed to the debtor under this title.*

11 “(B) *A party in interest that has a claim of an aggre-*
12 *gate amount less than \$1,000 shall not be subject to sub-*
13 *paragraph (A).*

14 “(6)(A) *Only the judge, United States trustee, bank-*
15 *ruptcy administrator, or panel trustee may bring a motion*
16 *under section 707(b), if the current monthly income of the*
17 *debtor, or in a joint case, the debtor and the debtor's spouse,*
18 *as of the date of the order for relief, when multiplied by*
19 *12, is equal to or less than—*

20 “(i) *the national or applicable State median*
21 *family income reported for a family of equal or lesser*
22 *size, whichever is greater; or*

23 “(ii) *in the case of a household of 1 person, the*
24 *national or applicable State median household income*

1 *last reported by the Bureau of the Census for 1 earn-*
2 *er, whichever is greater.*

3 *“(B) Notwithstanding subparagraph (A), the national*
4 *or applicable State median family income for a family of*
5 *more than 4 individuals shall be the national or applicable*
6 *State median family income last reported by the Bureau*
7 *of the Census for a family of 4 individuals, whichever is*
8 *greater, plus \$583 for each additional member of that fam-*
9 *ily.”.*

10 *(c) NONLIMITATION OF INFORMATION.—Nothing in*
11 *this title shall limit the ability of a creditor to provide in-*
12 *formation to a judge, United States trustee, bankruptcy ad-*
13 *ministrator or panel trustee.*

14 *(d) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of*
15 *title 11, United States Code, as amended by subsection (a)*
16 *of this section, is amended by adding at the end the fol-*
17 *lowing:*

18 *“(c)(1) In this subsection—*

19 *“(A) the term ‘crime of violence’ has the meaning*
20 *given that term in section 16 of title 18; and*

21 *“(B) the term ‘drug trafficking crime’ has the*
22 *meaning given that term in section 924(c)(2) of title*
23 *18.*

24 *“(2) Except as provided in paragraph (3), after notice*
25 *and a hearing, the court, on a motion by the victim of a*

1 *crime of violence or a drug trafficking crime, or at the re-*
2 *quest of a party in interest, shall dismiss a voluntary case*
3 *filed by an individual debtor under this chapter if that in-*
4 *dividual was convicted of that crime.*

5 “(3) *The court may not dismiss a case under para-*
6 *graph (2) if the debtor establishes by a preponderance of*
7 *the evidence that the filing of a case under this chapter is*
8 *necessary to satisfy a claim for a domestic support obliga-*
9 *tion.*”.

10 (e) *CLERICAL AMENDMENT.—The table of sections for*
11 *chapter 7 of title 11, United States Code, is amended by*
12 *striking the item relating to section 707 and inserting the*
13 *following:*

 “707. *Dismissal of a case or conversion to a case under chapter 11 or 13.*”.

14 **SEC. 103. FINDINGS AND STUDY.**

15 (a) *FINDINGS.—Congress finds that the Secretary of*
16 *the Treasury has the inherent authority to alter the Internal*
17 *Revenue Service standards established to set guidelines for*
18 *repayment plans as needed to accommodate their use under*
19 *section 707(b) of title 11, United States Code.*

20 (b) *STUDY.—*

21 (1) *IN GENERAL.—Not later than 3 years after*
22 *the date of enactment of this Act, the Secretary of the*
23 *Treasury, in consultation with the Director of the Ex-*
24 *ecutive Office of United States Trustees, shall submit*
25 *a report to the Committee on the Judiciary of the*

1 *Senate and the Committee on the Judiciary of the*
2 *House of Representatives containing the findings of*
3 *the Secretary concerning the utilization of Internal*
4 *Revenue Service standards for determining—*

5 *(A) the current monthly expenses of a debtor*
6 *under section 707(b) of title 11, United States*
7 *Code; and*

8 *(B) the impact that the application of those*
9 *standards has had on debtors and on the bank-*
10 *ruptcy courts.*

11 *(2) RECOMMENDATION.—The report under para-*
12 *graph (1) may include recommendations for amend-*
13 *ments to title 11, United States Code, that are con-*
14 *sistent with the findings of the Secretary of the Treas-*
15 *ury under paragraph (1).*

16 **SEC. 104. NOTICE OF ALTERNATIVES.**

17 *Section 342(b) of title 11, United States Code, is*
18 *amended to read as follows:*

19 *“(b)(1) Before the commencement of a case under this*
20 *title by an individual whose debts are primarily consumer*
21 *debts, that individual shall be given or obtain (as required*
22 *in section 521(a)(1), as part of the certification process*
23 *under subchapter I of chapter 5) a written notice prescribed*
24 *by the United States trustee for the district in which the*
25 *petition is filed under section 586 of title 28.*

1 “(2) *The notice shall contain the following:*

2 “(A) *A brief description of chapters 7, 11, 12,*
3 *and 13 and the general purpose, benefits, and costs of*
4 *proceeding under each of those chapters.*

5 “(B) *A brief description of services that may be*
6 *available to that individual from a nonprofit budget*
7 *and credit counseling agency that is approved by the*
8 *United States trustee for that district.”.*

9 **SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING**

10 **TEST PROGRAM.**

11 (a) *DEVELOPMENT OF FINANCIAL MANAGEMENT AND*
12 *TRAINING CURRICULUM AND MATERIALS.—The Director of*
13 *the Executive Office for United States Trustees (in this sec-*
14 *tion referred to as the “Director”) shall—*

15 (1) *consult with a wide range of individuals who*
16 *are experts in the field of debtor education, including*
17 *trustees who are appointed under chapter 13 of title*
18 *11, United States Code, and who operate financial*
19 *management education programs for debtors; and*

20 (2) *develop a financial management training*
21 *curriculum and materials that may be used to edu-*
22 *cate individual debtors concerning how to better man-*
23 *age their finances.*

24 (b) *TEST.—*

1 (1) *IN GENERAL.*—*The Director shall select 3 ju-*
2 *dicial districts of the United States in which to test*
3 *the effectiveness of the financial management training*
4 *curriculum and materials developed under subsection*
5 *(a).*

6 (2) *AVAILABILITY OF CURRICULUM AND MATE-*
7 *RIALS.*—*For a 1-year period beginning not later than*
8 *270 days after the date of enactment of this Act, the*
9 *curriculum and materials referred to in paragraph*
10 *(1) shall be made available by the Director, directly*
11 *or indirectly, on request to individual debtors in cases*
12 *filed during that 1-year period under chapter 7 or 13*
13 *of title 11, United States Code.*

14 (c) *EVALUATION.*—

15 (1) *IN GENERAL.*—*During the 1-year period re-*
16 *ferred to in subsection (b), the Director shall evaluate*
17 *the effectiveness of—*

18 (A) *the financial management training cur-*
19 *riculum and materials developed under sub-*
20 *section (a); and*

21 (B) *a sample of existing consumer edu-*
22 *cation programs such as those described in the*
23 *report of the National Bankruptcy Review Com-*
24 *mission issued on October 20, 1997, that are rep-*

1 *representative of consumer education programs car-*
2 *ried out by—*

3 *(i) the credit industry;*

4 *(ii) trustees serving under chapter 13*
5 *of title 11, United States Code; and*

6 *(iii) consumer counseling groups.*

7 *(2) REPORT.—Not later than 3 months after con-*
8 *cluding the evaluation under paragraph (1), the Di-*
9 *rector shall submit a report to the Speaker of the*
10 *House of Representatives and the President pro tem-*
11 *porare of the Senate, for referral to the appropriate*
12 *committees of Congress, containing the findings of the*
13 *Director regarding the effectiveness of such cur-*
14 *riculum, such materials, and such programs.*

15 **SEC. 106. CREDIT COUNSELING.**

16 *(a) WHO MAY BE A DEBTOR.—Section 109 of title 11,*
17 *United States Code, is amended by adding at the end the*
18 *following:*

19 *“(h)(1) Subject to paragraphs (2) and (3), and not-*
20 *withstanding any other provision of this section, an indi-*
21 *vidual may not be a debtor under this title unless that indi-*
22 *vidual has, during the 180-day period preceding the date*
23 *of filing of the petition of that individual, received from*
24 *an approved nonprofit budget and credit counseling agency*
25 *described in section 111(a) an individual or group briefing*

1 *(including a briefing conducted by telephone or on the*
2 *Internet) that outlined the opportunities for available credit*
3 *counseling and assisted that individual in performing a re-*
4 *lated budget analysis.*

5 “(2)(A) *Paragraph (1) shall not apply with respect to*
6 *a debtor who resides in a district for which the United*
7 *States trustee or bankruptcy administrator of the bank-*
8 *ruptcy court of that district determines that the approved*
9 *nonprofit budget and credit counseling agency for that dis-*
10 *trict is not reasonably able to provide adequate services to*
11 *the additional individuals who would otherwise seek credit*
12 *counseling from that agency by reason of the requirements*
13 *of paragraph (1).*

14 “(B) *Each United States trustee or bankruptcy admin-*
15 *istrator that makes a determination described in subpara-*
16 *graph (A) shall review that determination not later than*
17 *1 year after the date of that determination, and not less*
18 *frequently than every year thereafter. Notwithstanding the*
19 *preceding sentence, a nonprofit budget and credit coun-*
20 *seling service may be disapproved by the United States*
21 *trustee or bankruptcy administrator at any time.*

22 “(3)(A) *Subject to subparagraph (B), the requirements*
23 *of paragraph (1) shall not apply with respect to a debtor*
24 *who submits to the court a certification that—*

1 “(i) describes exigent circumstances that merit a
2 waiver of the requirements of paragraph (1);

3 “(ii) states that the debtor requested credit coun-
4 seling services from an approved nonprofit budget
5 and credit counseling agency, but was unable to ob-
6 tain the services referred to in paragraph (1) during
7 the 5-day period beginning on the date on which the
8 debtor made that request; and

9 “(iii) is satisfactory to the court.

10 “(B) With respect to a debtor, an exemption under sub-
11 paragraph (A) shall cease to apply to that debtor on the
12 date on which the debtor meets the requirements of para-
13 graph (1), but in no case may the exemption apply to that
14 debtor after the date that is 30 days after the debtor files
15 a petition, except that the court, for cause, may order an
16 additional 15 days.”.

17 (b) CHAPTER 7 DISCHARGE.—Section 727(a) of title
18 11, United States Code, is amended—

19 (1) in paragraph (9), by striking “or” at the
20 end;

21 (2) in paragraph (10), by striking the period
22 and inserting “; or”; and

23 (3) by adding at the end the following:

24 “(11) after the filing of the petition, the debtor
25 failed to complete an instructional course concerning

1 *personal financial management described in section*
2 *111.”.*

3 (c) *CHAPTER 13 DISCHARGE.*—Section 1328 of title
4 11, *United States Code*, is amended by adding at the end
5 *the following:*

6 “(g) *The court shall not grant a discharge under this*
7 *section to a debtor, unless after filing a petition the debtor*
8 *has completed an instructional course concerning personal*
9 *financial management described in section 111.*

10 “(h) *Subsection (g) shall not apply with respect to a*
11 *debtor who resides in a district for which the United States*
12 *trustee or bankruptcy administrator of the bankruptcy*
13 *court of that district determines that the approved instruc-*
14 *tional courses are not adequate to service the additional in-*
15 *dividuals who would be required to complete the instruc-*
16 *tional course by reason of the requirements of this section.*

17 “(i) *Each United States trustee or bankruptcy admin-*
18 *istrator that makes a determination described in subsection*
19 *(h) shall review that determination not later than 1 year*
20 *after the date of that determination, and not less frequently*
21 *than every year thereafter.”.*

22 (d) *DEBTOR’S DUTIES.*—Section 521 of title 11,
23 *United States Code*, is amended—

24 (1) by inserting “(a)” before “*The debtor shall—*
25 ”; and

1 (2) *by adding at the end the following:*

2 “(b) *In addition to the requirements under subsection*
3 *(a), an individual debtor shall file with the court—*

4 “*(1) a certificate from the approved nonprofit*
5 *budget and credit counseling agency that provided the*
6 *debtor services under section 109(h); and*

7 “*(2) a copy of the debt repayment plan, if any,*
8 *developed under section 109(h) through the approved*
9 *nonprofit budget and credit counseling agency re-*
10 *ferred to in paragraph (1).”.*

11 *(e) GENERAL PROVISIONS.—*

12 (1) *IN GENERAL.—Chapter 1 of title 11, United*
13 *States Code, is amended by adding at the end the fol-*
14 *lowing:*

15 “**§ 111. Nonprofit budget and credit counseling agen-**
16 **cies; financial management instructional**
17 **courses**

18 “(a) *The clerk of each district shall maintain a list*
19 *of nonprofit budget and credit counseling agencies that*
20 *provide 1 or more programs described in section 109(h) and*
21 *a list of instructional courses concerning personal financial*
22 *management that have been approved by—*

23 “*(1) the United States trustee; or*

24 “*(2) the bankruptcy administrator for the dis-*
25 *trict.*

1 “(b) For inclusion on the approved list under sub-
2 section (a), the United States trustee or bankruptcy admin-
3 istrator shall require the credit counseling service, at a
4 minimum—

5 “(1) to be a nonprofit budget and credit coun-
6 seling agency, the majority of the board of directors
7 of which—

8 “(A) are not employed by the agency; and

9 “(B) will not directly or indirectly benefit
10 financially from the outcome of a credit coun-
11 seling session;

12 “(2) if a fee is charged for counseling services, to
13 charge a reasonable fee, and to provide services with-
14 out regard to ability to pay the fee;

15 “(3) to provide for safekeeping and payment of
16 client funds, including an annual audit of the trust
17 accounts and appropriate employee bonding;

18 “(4) to provide full disclosures to clients, includ-
19 ing funding sources, counselor qualifications, and pos-
20 sible impact on credit reports;

21 “(5) to provide adequate counseling with respect
22 to client credit problems that includes an analysis of
23 their current situation, what brought them to that fi-
24 nancial status, and how they can develop a plan to

1 *handle the problem without incurring negative amor-*
2 *tization of their debts; and*

3 “(6) *to provide trained counselors who receive no*
4 *commissions or bonuses based on the counseling ses-*
5 *sion outcome.*

6 “(c)(1) *No credit counseling service may provide to a*
7 *credit reporting agency information concerning whether an*
8 *individual debtor has received or sought instruction con-*
9 *cerning personal financial management from the credit*
10 *counseling service.*

11 “(2) *A credit counseling service that willfully or neg-*
12 *ligently fails to comply with any requirement under this*
13 *title with respect to a debtor shall be liable for damages*
14 *in an amount equal to the sum of—*

15 “(A) *any actual damages sustained by the debtor*
16 *as a result of the violation; and*

17 “(B) *any court costs or reasonable attorneys’ fees*
18 *(as determined by the court) incurred in an action to*
19 *recover those damages.”.*

20 (2) *CLERICAL AMENDMENT.—The table of sec-*
21 *tions for chapter 1 of title 11, United States Code, is*
22 *amended by adding at the end the following:*

 “111. *Nonprofit budget and credit counseling agencies; financial management in-*
 structional courses.”.

23 (f) *LIMITATION.—Section 362 of title 11, United States*
24 *Code, is amended by adding at the end the following:*

1 “(i) If a case commenced under chapter 7, 11, or 13
 2 is dismissed due to the creation of a debt repayment plan,
 3 for purposes of subsection (c)(3), any subsequent case com-
 4 menced by the debtor under any such chapter shall not be
 5 presumed to be filed not in good faith.”.

6 **TITLE II—ENHANCED**
 7 **CONSUMER PROTECTION**
 8 **Subtitle A—Penalties for Abusive**
 9 **Creditor Practices**

10 **SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLU-**
 11 **TION.**

12 (a) *REDUCTION OF CLAIM.*—Section 502 of title 11,
 13 United States Code, is amended by adding at the end the
 14 following:

15 “(k)(1) The court, on the motion of the debtor and after
 16 a hearing, may reduce a claim filed under this section based
 17 in whole on unsecured consumer debts by not more than
 18 20 percent of the claim, if—

19 “(A) the claim was filed by a creditor who un-
 20 reasonably refused to negotiate a reasonable alter-
 21 native repayment schedule proposed by an approved
 22 credit counseling agency acting on behalf of the debt-
 23 or;

24 “(B) the offer of the debtor under subparagraph
 25 (A)—

1 “(i) was made at least 60 days before the
2 filing of the petition; and

3 “(ii) provided for payment of at least 60
4 percent of the amount of the debt over a period
5 not to exceed the repayment period of the loan,
6 or a reasonable extension thereof; and

7 “(C) no part of the debt under the alternative re-
8 payment schedule is nondischargeable.

9 “(2) The debtor shall have the burden of proving, by
10 clear and convincing evidence, that—

11 “(A) the creditor unreasonably refused to con-
12 sider the debtor’s proposal; and

13 “(B) the proposed alternative repayment sched-
14 ule was made in the 60-day period specified in para-
15 graph (1)(B)(i).”.

16 (b) *LIMITATION ON AVOIDABILITY.*—Section 547 of
17 title 11, United States Code, is amended by adding at the
18 end the following:

19 “(h) The trustee may not avoid a transfer if such
20 transfer was made as a part of an alternative repayment
21 plan between the debtor and any creditor of the debtor cre-
22 ated by an approved credit counseling agency.”.

23 **SEC. 202. EFFECT OF DISCHARGE.**

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

1 “(i) *The willful failure of a creditor to credit payments*
2 *received under a plan confirmed under this title (including*
3 *a plan of reorganization confirmed under chapter 11 of this*
4 *title) in the manner required by the plan (including cred-*
5 *iting the amounts required under the plan) shall constitute*
6 *a violation of an injunction under subsection (a)(2).”.*

7 **SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.**
8

9 (a) *IN GENERAL.*—Section 524 of title 11, United
10 States Code, as amended by section 202 of this Act, is
11 amended—

12 (1) *in subsection (c) by striking paragraph (2)*
13 *and inserting the following:*

14 “(2) *the debtor received the disclosures described*
15 *in subsection (i) at or before the time the debtor*
16 *signed the agreement.”;*

17 (2) *by inserting at the end of the section the fol-*
18 *lowing:*

19 “(i)(1) *The disclosures required under subsection (c)*
20 *paragraph (2) of this section shall consist of the disclosure*
21 *statement described in paragraph (3), completed as required*
22 *in that paragraph, together with the agreement, statement,*
23 *declaration, motion and order described, respectively, in*
24 *paragraphs (4) through (8) of this subsection, and shall be*

1 *the only disclosures required in connection with the reaffir-*
2 *mation.*

3 “(2) *Disclosures made under this paragraph shall be*
4 *made clearly and conspicuously and in writing. The terms*
5 *‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall*
6 *be disclosed more conspicuously than other terms, data or*
7 *information provided in connection with this disclosure, ex-*
8 *cept that the phrases ‘Before agreeing to reaffirm a debt,*
9 *review these important disclosures’ and ‘Summary of Reaf-*
10 *firmation Agreement’ may be equally conspicuous. Disclo-*
11 *sures may be made in a different order and may use termi-*
12 *nology different from that set forth in paragraphs (2)*
13 *through (8), except that the terms ‘Amount Reaffirmed’ and*
14 *‘Annual Percentage Rate’ must be used where indicated.*

15 “(3) *The disclosure statement required under this*
16 *paragraph shall consist of the following:*

17 “(A) *The statement: ‘Part A: Before agreeing to*
18 *reaffirm a debt, review these important disclosures:’;*

19 “(B) *Under the heading ‘Summary of Reaffir-*
20 *mation Agreement’, the statement: ‘This Summary is*
21 *made pursuant to the requirements of the Bankruptcy*
22 *Code’;*

23 “(C) *The ‘Amount Reaffirmed’, using that term,*
24 *which shall be—*

1 “(i) the total amount which the debtor
2 agrees to reaffirm, and

3 “(ii) the total of any other fees or cost ac-
4 crued as of the date of the disclosure statement.

5 “(D) In conjunction with the disclosure of the
6 ‘Amount Reaffirmed’, the statements—

7 “(i) ‘The amount of debt you have agreed to
8 reaffirm’; and

9 “(ii) ‘Your credit agreement may obligate
10 you to pay additional amounts which may come
11 due after the date of this disclosure. Consult your
12 credit agreement.’.

13 “(E) The ‘Annual Percentage Rate’, using that
14 term, which shall be disclosed as—

15 “(i) if, at the time the petition is filed, the
16 debt is open end credit as defined pursuant to
17 the Truth in Lending Act, title 15, United States
18 Code, section 1601 et. seq., then—

19 “(I) the annual percentage rate deter-
20 mined pursuant to title 15, United States
21 Code, section 1637(b) (5) and (6), as appli-
22 cable, as disclosed to the debtor in the most
23 recent periodic statement prior to the agree-
24 ment or, if no such periodic statement has
25 been provided the debtor during the prior

1 *six months, the annual percentage rate as it*
2 *would have been so disclosed at the time the*
3 *disclosure statement is given the debtor, or*
4 *to the extent this annual percentage rate is*
5 *not readily available or not applicable, then*

6 *“(II) the simple interest rate applica-*
7 *ble to the amount reaffirmed as of the date*
8 *the disclosure statement is given to the debt-*
9 *or, or if different simple interest rates apply*
10 *to different balances, the simple interest rate*
11 *applicable to each such balance, identifying*
12 *the amount of each such balance included in*
13 *the amount reaffirmed, or*

14 *“(III) if the entity making the disclo-*
15 *sure elects, to disclose the annual percentage*
16 *rate under (I) and the simple interest rate*
17 *under (II);*

18 *“(ii) if, at the time the petition is filed, the*
19 *debt is closed end credit as defined pursuant to*
20 *the Truth in Lending Act, title 15, United States*
21 *Code, section 1601 et seq., then—*

22 *“(I) the annual percentage rate pursu-*
23 *ant to title 15, United States Code, section*
24 *1638(a)(4) as disclosed to the debtor in the*
25 *most recent disclosure statement given the*

1 debtor prior to the reaffirmation agreement
2 with respect to the debt, or, if no such dis-
3 closure statement was provided the debtor,
4 the annual percentage rate as it would have
5 been so disclosed at the time the disclosure
6 statement is given the debtor, or to the ex-
7 tent this annual percentage rate is not read-
8 ily available or not applicable, then

9 “(II) the simple interest rate applica-
10 ble to the amount reaffirmed as of the date
11 the disclosure statement is given the debtor,
12 or if different simple interest rates apply to
13 different balances, the simple interest rate
14 applicable to each such balance, identifying
15 the amount of such balance included in the
16 amount reaffirmed, or

17 “(III) if the entity making the disclo-
18 sure elects, to disclose the annual percentage
19 rate under (I) and the simple interest rate
20 under (II).

21 “(F) If the underlying debt transaction was dis-
22 closed as a variable rate transaction on the most re-
23 cent disclosure given pursuant to the Truth in Lend-
24 ing Act, title 15, United States Code, section 1601 et
25 seq., by stating ‘The interest rate on your loan may

1 *be a variable interest rate which changes from time*
2 *to time, so that the annual percentage rate disclosed*
3 *here may be higher or lower.’.*

4 *“(G) If the debt is secured by a security interest*
5 *which has not been waived in whole or in part or de-*
6 *termined to be void by a final order of the court at*
7 *the time of the disclosure, by disclosing that a secu-*
8 *rity interest or lien in goods or property is asserted*
9 *over some or all of the obligations you are reaffirming*
10 *and listing the items and their original purchase*
11 *price that are subject to the asserted security interest,*
12 *or if not a purchase-money security interest then list-*
13 *ing by items or types and the original amount of the*
14 *loan.*

15 *“(H) At the election of the creditor, a statement*
16 *of the repayment schedule using one or a combination*
17 *of the following—*

18 *“(i) by making the statement: ‘Your first*
19 *payment in the amount \$_____ is due on*
20 *_____ but the future payment amount may be*
21 *different. Consult your reaffirmation or credit*
22 *agreement, as applicable.’, and stating the*
23 *amount of the first payment and the due date of*
24 *that payment in the places provided;*

1 “(ii) by making the statement: ‘Your pay-
2 ment schedule will be;’, and describing the repay-
3 ment schedule with the number, amount and due
4 dates or period of payments scheduled to repay
5 the obligations reaffirmed to the extent then
6 known by the disclosing party; or

7 “(iii) by describing the debtor’s repayment
8 obligations with reasonable specificity to the ex-
9 tent then known by the disclosing party.

10 “(I) The following statement: ‘Note: When this
11 disclosure talks about what a creditor “may” do, it
12 does not use the word “may” to give the creditor spe-
13 cific permission. The word “may” is used to tell you
14 what might occur if the law permits the creditor to
15 take the action. If you have questions about your reaf-
16 firmation or what the law requires, talk to the attor-
17 ney who helped you negotiate this agreement. If you
18 don’t have an attorney helping you, the judge will ex-
19 plain the effect of your reaffirmation when the reaffir-
20 mation hearing is held.’.

21 “(J) The following additional statements:

22 “‘Reaffirming a debt is a serious financial decision.
23 The law requires you to take certain steps to make sure
24 the decision is in your best interest. If these steps are not

1 completed, the reaffirmation agreement is not effective, even
2 though you have signed it.

3 “1. Read the disclosures in this Part A care-
4 fully. Consider the decision to reaffirm carefully.
5 Then, if you want to reaffirm, sign the reaffirmation
6 agreement in Part B (or you may use a separate
7 agreement you and your creditor agree on).

8 “2. Complete and sign Part D and be sure you
9 can afford to make the payments you are agreeing to
10 make and have received a copy of the disclosure state-
11 ment and a completed and signed reaffirmation
12 agreement.

13 “3. If you were represented by an attorney dur-
14 ing the negotiation of the reaffirmation agreement,
15 the attorney must have signed the certification in
16 Part C.

17 “4. If you were not represented by an attorney
18 during the negotiation of the reaffirmation agreement,
19 you must have completed and signed Part E.

20 “5. The original of this disclosure must be filed
21 with the court by you or your creditor. If a separate
22 reaffirmation agreement (other than the one in Part
23 B) has been signed, it must be attached.

24 “6. If you were represented by an attorney dur-
25 ing the negotiation of the reaffirmation agreement,

1 *your reaffirmation agreement becomes effective upon*
2 *filing with the court unless the reaffirmation is pre-*
3 *sumed to be an undue hardship as explained in Part*
4 *D.*

5 *“7. If you were not represented by an attorney*
6 *during the negotiation of the reaffirmation agreement,*
7 *it will not be effective unless the court approves it.*
8 *The court will notify you of the hearing on your reaf-*
9 *firmation agreement. You must attend this hearing in*
10 *bankruptcy court where the judge will review your*
11 *agreement. The bankruptcy court must approve the*
12 *agreement as consistent with your best interests, ex-*
13 *cept that no court approval is required if the agree-*
14 *ment is for a consumer debt secured by a mortgage,*
15 *deed of trust, security deed or other lien on your real*
16 *property, like your home.*

17 *“Your right to rescind a reaffirmation. You may re-*
18 *scind (cancel) your reaffirmation at any time before the*
19 *bankruptcy court enters a discharge order or within 60 days*
20 *after the agreement is filed with the court, whichever is*
21 *longer. To rescind or cancel, you must notify the creditor*
22 *that the agreement is canceled.*

23 *“What are your obligations if you reaffirm the debt?*
24 *A reaffirmed debt remains your personal legal obligation.*
25 *It is not discharged in your bankruptcy. That means that*

1 *if you default on your reaffirmed debt after your bank-*
2 *ruptcy is over, your creditor may be able to take your prop-*
3 *erty or your wages. Otherwise, your obligations will be de-*
4 *termined by the reaffirmation agreement which may have*
5 *changed the terms of the original agreement. For example,*
6 *if you are reaffirming an open end credit agreement, the*
7 *creditor may be permitted by that agreement and/or appli-*
8 *cable law to change the terms of the agreement in the future*
9 *under certain conditions.*

10 “*Are you required to enter into a reaffirmation agree-*
11 *ment by any law? No, you are not required to reaffirm a*
12 *debt by any law. Only agree to reaffirm a debt if it is in*
13 *your best interest. Be sure you can afford the payments you*
14 *agree to make.*

15 “*What if your creditor has a security interest or lien?*
16 *Your bankruptcy discharge does not eliminate any lien on*
17 *your property. A “lien” is often referred to as a security*
18 *interest, deed of trust, mortgage or security deed. Even if*
19 *you do not reaffirm and your personal liability on the debt*
20 *is discharged, because of the lien your creditor may still*
21 *have the right to take the security property if you do not*
22 *pay the debt or default on it. If the lien is on an item of*
23 *personal property that is exempt under your State’s law*
24 *or that the trustee has abandoned, you may be able to re-*
25 *deem the item rather than reaffirm the debt. To redeem,*

1 “(B) In the case of reaffirmations in which a presump-
2 tion of undue hardship has been established, the certifi-
3 cation shall state that in the opinion of the attorney, the
4 debtor is able to make the payment.

5 “(6) The statement in support of reaffirmation agree-
6 ment, which the debtor shall sign and date prior to filing
7 with the court, shall consist of the following:

8 “‘Part D: Debtor’s Statement in Support of Reaffir-
9 mation Agreement.

10 “‘1. I believe this agreement will not impose an undue
11 hardship on my dependents or me. I can afford to make
12 the payments on the reaffirmed debt because my monthly
13 income (take home pay plus any other income received) is
14 \$_____, and my actual current monthly expenses includ-
15 ing monthly payments on post-bankruptcy debt and other
16 reaffirmation agreements total \$_____, leaving \$_____
17 to make the required payments on this reaffirmed debt. I
18 understand that if my income less my monthly expenses
19 does not leave enough to make the payments, this reaffirma-
20 tion agreement is presumed to be an undue hardship on
21 me and must be reviewed by the court. However, this pre-
22 sumption may be overcome if I explain to the satisfaction
23 of the court how I can afford to make the payments here:
24 _____.

1 “‘2. I received a copy of the Reaffirmation Disclosure
2 Statement in Part A and a completed and signed reaffirma-
3 tion agreement.’.

4 “(7) The motion, which may be used if approval of
5 the agreement by the court is required in order for it to
6 be effective and shall be signed and dated by the moving
7 party, shall consist of the following:

8 “‘Part E: Motion for Court Approval (To be completed
9 only where debtor is not represented by an attorney.). I
10 (we), the debtor, affirm the following to be true and correct:

11 “‘I am not represented by an attorney in connection
12 with this reaffirmation agreement.

13 “‘I believe this agreement is in my best interest based
14 on the income and expenses I have disclosed in my State-
15 ment in Support of this reaffirmation agreement above, and
16 because (provide any additional relevant reasons the court
17 should consider):

18 “‘Therefore, I ask the court for an order approving this
19 reaffirmation agreement.’.

20 “(8) The court order, which may be used to approve
21 a reaffirmation, shall consist of the following:

22 “‘Court Order: The court grants the debtor’s motion
23 and approves the reaffirmation agreement described above.’.

24 “(j) Notwithstanding any other provision of this title:

1 “(1) A creditor may accept payments from a
2 debtor before and after the filing of a reaffirmation
3 agreement with the court.

4 “(2) A creditor may accept payments from a
5 debtor under a reaffirmation agreement which the
6 creditor believes in good faith to be effective.

7 “(3) The requirements of subsections (c)(2) and
8 (i) shall be satisfied if disclosures required under
9 those subsections are given in good faith.

10 “(k) Until 60 days after a reaffirmation agreement is
11 filed with the court (or such additional period as the court,
12 after notice and hearing and for cause, orders before the
13 expiration of such period), it shall be presumed that the
14 reaffirmation agreement is an undue hardship on the debtor
15 if the debtor’s monthly income less the debtor’s monthly ex-
16 penses as shown on the debtor’s completed and signed state-
17 ment in support of the reaffirmation agreement required
18 under subsection (i)(6) of this section is less than the sched-
19 uled payments on the reaffirmed debt. This presumption
20 must be reviewed by the court. The presumption may be
21 rebutted in writing by the debtor if the statement includes
22 an explanation which identifies additional sources of funds
23 to make the payments as agreed upon under the terms of
24 the reaffirmation agreement. If the presumption is not re-
25 butted to the satisfaction of the court, the court may dis-

1 *approve the agreement. However, no agreement shall be dis-*
2 *approved without notice and hearing to the debtor and cred-*
3 *itor and such hearing must be concluded before the entry*
4 *of the debtor's discharge.”.*

5 (b) *LAW ENFORCEMENT.*—

6 (1) *IN GENERAL.*—Chapter 9 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§158. Designation of United States attorneys and**
10 **agents of the Federal Bureau of Investiga-**
11 **tion to address abusive reaffirmations of**
12 **debt and materially fraudulent state-**
13 **ments in bankruptcy schedules**

14 “(a) *IN GENERAL.*—The Attorney General of the
15 United States shall designate the individuals described in
16 subsection (b) to have primary responsibility in carrying
17 out enforcement activities in addressing violations of sec-
18 tion 152 or 157 relating to abusive reaffirmations of debt.
19 In addition to addressing the violations referred to in the
20 preceding sentence, the individuals described under sub-
21 section (b) shall address violations of section 152 or 157
22 relating to materially fraudulent statements in bankruptcy
23 schedules that are intentionally false or intentionally mis-
24 leading.

1 “(b) *UNITED STATES DISTRICT ATTORNEYS AND*
2 *AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—*

3 *The individuals referred to in subsection (a) are—*

4 “(1) *a United States attorney for each judicial*
5 *district of the United States; and*

6 “(2) *an agent of the Federal Bureau of Inves-*
7 *tigation (within the meaning of section 3107) for each*
8 *field office of the Federal Bureau of Investigation.*

9 “(c) *BANKRUPTCY INVESTIGATIONS.—Each United*
10 *States attorney designated under this section shall have pri-*
11 *mary responsibility for carrying out the duties of a United*
12 *States attorney under section 3057.*

13 “(d) *BANKRUPTCY PROCEDURES.—The bankruptcy*
14 *courts shall establish procedures for referring any case*
15 *which may contain a materially fraudulent statement in*
16 *a bankruptcy schedule to the individuals designated under*
17 *this section.”.*

18 (2) *CLERICAL AMENDMENT.—The analysis for*
19 *chapter 9 of title 18, United States Code, is amended*
20 *by adding at the end the following:*

*“158. Designation of United States attorneys and agents of the Federal Bureau
of Investigation to address abusive reaffirmations of debt and
materially fraudulent statements in bankruptcy schedules.”.*

1 **Subtitle B—Priority Child Support**

2 **SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGA-**
3 **TION.**

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

6 *(1) by striking paragraph (12A); and*

7 *(2) by inserting after paragraph (14) the fol-*
8 *lowing:*

9 *“(14A) ‘domestic support obligation’ means a*
10 *debt that accrues before or after the entry of an order*
11 *for relief under this title, including interest that ac-*
12 *crues on that debt as provided under applicable non-*
13 *bankruptcy law notwithstanding any other provision*
14 *of this title, that is—*

15 *“(A) owed to or recoverable by—*

16 *“(i) a spouse, former spouse, or child of*
17 *the debtor or such child’s parent, legal*
18 *guardian, or responsible relative; or*

19 *“(ii) a governmental unit;*

20 *“(B) in the nature of alimony, mainte-*
21 *nance, or support (including assistance provided*
22 *by a governmental unit) of such spouse, former*
23 *spouse, or child of the debtor or such child’s par-*
24 *ent, without regard to whether such debt is ex-*
25 *pressly so designated;*

1 “(C) established or subject to establishment
2 before or after entry of an order for relief under
3 this title, by reason of applicable provisions of—

4 “(i) a separation agreement, divorce
5 decree, or property settlement agreement;

6 “(ii) an order of a court of record; or

7 “(iii) a determination made in accord-
8 ance with applicable nonbankruptcy law by
9 a governmental unit; and

10 “(D) not assigned to a nongovernmental en-
11 tity, unless that obligation is assigned volun-
12 tarily by the spouse, former spouse, child, or par-
13 ent, legal guardian, or responsible relative of the
14 child for the purpose of collecting the debt.”.

15 **SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUP-**
16 **PORT OBLIGATIONS.**

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

19 (1) by striking paragraph (7);

20 (2) by redesignating paragraphs (1) through (6)
21 as paragraphs (2) through (7), respectively;

22 (3) in paragraph (2), as redesignated, by strik-
23 ing “First” and inserting “Second”;

24 (4) in paragraph (3), as redesignated, by strik-
25 ing “Second” and inserting “Third”;

1 (5) in paragraph (4), as redesignated, by strik-
2 ing “Third” and inserting “Fourth”;

3 (6) in paragraph (5), as redesignated, by strik-
4 ing “Fourth” and inserting “Fifth”;

5 (7) in paragraph (6), as redesignated, by strik-
6 ing “Fifth” and inserting “Sixth”;

7 (8) in paragraph (7), as redesignated, by strik-
8 ing “Sixth” and inserting “Seventh”; and

9 (9) by inserting before paragraph (2), as redesi-
10 gnated, the following:

11 “(1) First:

12 “(A) Allowed unsecured claims for domestic
13 support obligations that, as of the date of the fil-
14 ing of the petition, are owed to or recoverable by
15 a spouse, former spouse, or child of the debtor, or
16 the parent, legal guardian, or responsible relative
17 of such child, without regard to whether the
18 claim is filed by such person or is filed by a gov-
19 ernmental unit on behalf of that person, on the
20 condition that funds received under this para-
21 graph by a governmental unit under this title
22 after the date of filing of the petition shall be ap-
23 plied and distributed in accordance with appli-
24 cable nonbankruptcy law.

1 “(B) Subject to claims under subparagraph
2 (A), allowed unsecured claims for domestic sup-
3 port obligations that, as of the date the petition
4 was filed are assigned by a spouse, former
5 spouse, child of the debtor, or such child’s parent,
6 legal guardian, or responsible relative to a gov-
7 ernmental unit (unless such obligation is as-
8 signed voluntarily by the spouse, former spouse,
9 child, parent, legal guardian, or responsible rel-
10 ative of the child for the purpose of collecting the
11 debt) or are owed directly to or recoverable by a
12 government unit under applicable nonbank-
13 ruptcy law, on the condition that funds received
14 under this paragraph by a governmental unit
15 under this title after the date of filing of the peti-
16 tion be applied and distributed in accordance
17 with applicable nonbankruptcy law.”.

18 **SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND**
19 **DISCHARGE IN CASES INVOLVING DOMESTIC**
20 **SUPPORT OBLIGATIONS.**

21 *Title 11, United States Code, is amended—*

22 (1) *in section 1129(a), by adding at the end the*
23 *following:*

24 “(14) *If the debtor is required by a judicial or*
25 *administrative order or statute to pay a domestic*

1 *support obligation, the debtor has paid all amounts*
2 *payable under such order or statute for such obliga-*
3 *tion that first become payable after the date on which*
4 *the petition is filed.”;*

5 *(2) in section 1208(c)—*

6 *(A) in paragraph (8), by striking “or” at*
7 *the end;*

8 *(B) in paragraph (9), by striking the period*
9 *at the end and inserting “; and”; and*

10 *(C) by adding at the end the following:*

11 *“(10) failure of the debtor to pay any domestic*
12 *support obligation that first becomes payable after the*
13 *date on which the petition is filed.”;*

14 *(3) in section 1222(a)—*

15 *(A) in paragraph (2), by striking “and” at*
16 *the end;*

17 *(B) in paragraph (3), by striking the period*
18 *at the end and inserting “; and”; and*

19 *(C) by adding at the end the following:*

20 *“(4) notwithstanding any other provision of this*
21 *section, a plan may provide for less than full pay-*
22 *ment of all amounts owed for a claim entitled to pri-*
23 *ority under section 507(a)(1)(B) only if the plan pro-*
24 *vides that all of the debtor’s projected disposable in-*
25 *come for a 5-year period, beginning on the date that*

1 *the first payment is due under the plan, will be ap-*
2 *plied to make payments under the plan.”;*

3 *(4) in section 1222(b)—*

4 *(A) by redesignating paragraph (10) as*
5 *paragraph (11); and*

6 *(B) by inserting after paragraph (9) the fol-*
7 *lowing:*

8 *“(10) provide for the payment of interest accru-*
9 *ing after the date of the filing of the petition on unse-*
10 *cured claims that are nondischargeable under section*
11 *1328(a), except that such interest may be paid only*
12 *to the extent that the debtor has disposable income*
13 *available to pay such interest after making provision*
14 *for full payment of all allowed claims;”;*

15 *(5) in section 1225(a)—*

16 *(A) in paragraph (5), by striking “and” at*
17 *the end;*

18 *(B) in paragraph (6), by striking the period*
19 *at the end and inserting “; and”; and*

20 *(C) by adding at the end the following:*

21 *“(7) if the debtor is required by a judicial or ad-*
22 *ministrative order or statute to pay a domestic sup-*
23 *port obligation, the debtor has paid all amounts pay-*
24 *able under such order for such obligation that first be-*

1 *come payable after the date on which the petition is*
2 *filed.”;*

3 (6) *in section 1228(a), in the matter preceding*
4 *paragraph (1), by inserting “, and in the case of a*
5 *debtor who is required by a judicial or administrative*
6 *order to pay a domestic support obligation, after such*
7 *debtor certifies that all amounts payable under such*
8 *order or statute that are due on or before the date of*
9 *the certification (including amounts due before the pe-*
10 *tition was filed, but only to the extent provided for*
11 *in the plan) have been paid” after “completion by the*
12 *debtor of all payments under the plan”;*

13 (7) *in section 1307(c)—*

14 (A) *in paragraph (9), by striking “or” at*
15 *the end;*

16 (B) *in paragraph (10), by striking the pe-*
17 *riod at the end and inserting “; or”; and*

18 (C) *by adding at the end the following:*

19 “(11) *failure of the debtor to pay any domestic*
20 *support obligation that first becomes payable after the*
21 *date on which the petition is filed.”;*

22 (8) *in section 1322(a)—*

23 (A) *in paragraph (2), by striking “and” at*
24 *the end;*

1 (B) in paragraph (3), by striking the period
2 at the end and inserting “; and”; and

3 (C) by adding in the end the following:

4 “(4) notwithstanding any other provision of this
5 section, a plan may provide for less than full pay-
6 ment of all amounts owed for a claim entitled to pri-
7 ority under section 507(a)(1)(B) only if the plan pro-
8 vides that all of the debtor’s projected disposable in-
9 come for a 5-year period beginning on the date that
10 the first payment is due under the plan will be ap-
11 plied to make payments under the plan.”;

12 (9) in section 1322(b)—

13 (A) in paragraph (9), by striking “; and”
14 and inserting a semicolon;

15 (B) by redesignating paragraph (10) as
16 paragraph (11); and

17 (C) inserting after paragraph (9) the fol-
18 lowing:

19 “(10) provide for the payment of interest accru-
20 ing after the date of the filing of the petition on unse-
21 cured claims that are nondischargeable under section
22 1328(a), except that such interest may be paid only
23 to the extent that the debtor has disposable income
24 available to pay such interest after making provision
25 for full payment of all allowed claims; and”;

1 (10) in section 1325(a)—

2 (A) in paragraph (5), by striking “and” at
3 the end;

4 (B) in paragraph (6), by striking the period
5 at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(7) if the debtor is required by a judicial or ad-
8 ministrative order or statute to pay a domestic sup-
9 port obligation, the debtor has paid amounts payable
10 after the date on which the petition is filed.”; and

11 (11) in section 1328(a), in the matter preceding
12 paragraph (1), by inserting “, and in the case of a
13 debtor who is required by a judicial or administrative
14 order to pay a domestic support obligation, after such
15 debtor certifies that all amounts payable under such
16 order or statute that are due on or before the date of
17 the certification (including amounts due before the pe-
18 tition was filed, but only to the extent provided for
19 in the plan) have been paid” after “completion by the
20 debtor of all payments under the plan”.

21 **SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC**
22 **SUPPORT OBLIGATION PROCEEDINGS.**

23 Section 362(b) of title 11, United States Code, is
24 amended by striking paragraph (2) and inserting the fol-
25 lowing:

1 “(2) under subsection (a)—

2 “(A) of the commencement or continuation
3 of a civil action or proceeding—

4 “(i) for the establishment of paternity;

5 “(ii) for the establishment or modifica-
6 tion of an order for domestic support obli-
7 gations;

8 “(iii) concerning child custody or visi-
9 tation;

10 “(iv) for the dissolution of a marriage
11 except to the extent that such a proceeding
12 seeks to determine the division of property
13 which is property of the estate; or

14 “(v) regarding domestic violence;

15 “(B) the collection of a domestic support ob-
16 ligation from property that is not property of the
17 estate;

18 “(C) with respect to the withholding of in-
19 come that is property of the estate or property of
20 the debtor for payment of a domestic support ob-
21 ligation pursuant to a judicial or administrative
22 order;

23 “(D) the withholding, suspension, or restric-
24 tion of drivers’ licenses, professional and occupa-
25 tional licenses, and recreational licenses under

1 *State law, as specified in section 466(a)(16) of*
2 *the Social Security Act (42 U.S.C. 666(a)(16));*

3 *“(E) the reporting of overdue support owed*
4 *by a parent to any consumer reporting agency*
5 *as specified in section 466(a)(7) of the Social Se-*
6 *curity Act (42 U.S.C. 666(a)(7));*

7 *“(F) the interception of tax refunds, as*
8 *specified in sections 464 and 466(a)(3) of the So-*
9 *cial Security Act (42 U.S.C. 664 and 666(a)(3))*
10 *or under an analogous State law; or*

11 *“(G) the enforcement of medical obligations*
12 *as specified under title IV of the Social Security*
13 *Act (42 U.S.C. 601 et seq.).”;*

14 **SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
15 **ALIMONY, MAINTENANCE, AND SUPPORT.**

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

18 (1) *in subsection (a)—*

19 (A) *by striking paragraph (5) and inserting*
20 *the following:*

21 *“(5) for a domestic support obligation;”;*

22 (B) *in paragraph (15)—*

23 (i) *by inserting “to a spouse, former*
24 *spouse, or child of the debtor and” before*
25 *“not of the kind”;*

1 (ii) by inserting “or” after “court of
2 record”; and

3 (iii) by striking “unless—” and all
4 that follows through the end of the para-
5 graph and inserting a semicolon; and

6 (C) by striking paragraph (18); and

7 (2) in subsection (c), by striking “(6), or (15)”
8 and inserting “or (6)”.

9 **SEC. 216. CONTINUED LIABILITY OF PROPERTY.**

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

12 (1) in subsection (c), by striking paragraph (1)
13 and inserting the following:

14 “(1) a debt of a kind specified in paragraph (1)
15 or (4) of section 523(a) (in which case, notwith-
16 standing any provision of applicable nonbankruptcy
17 law to the contrary, such property shall be liable for
18 a debt of a kind specified in section 523(a)(4));” and

19 (2) in subsection (f)(1)(A), by striking the dash
20 and all that follows through the end of the subpara-
21 graph and inserting “of a kind that is specified in
22 section 523(a)(4); or”.

1 **SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS**
2 **AGAINST PREFERENTIAL TRANSFER MO-**
3 **TIONS.**

4 *Section 547(c)(7) of title 11, United States Code, is*
5 *amended to read as follows:*

6 *“(7) to the extent such transfer was a bona fide*
7 *payment of a debt for a domestic support obligation;*
8 *or”.*

9 **SEC. 218. DISPOSABLE INCOME DEFINED.**

10 *(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—*
11 *Section 1225(b)(2)(A) of title 11, United States Code, is*
12 *amended by inserting “or for a domestic support obligation*
13 *that first becomes payable after the date on which the peti-*
14 *tion is filed” after “dependent of the debtor”.*

15 *(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—*
16 *Section 1325(b)(2)(A) of title 11, United States Code, is*
17 *amended by inserting “or for a domestic support obligation*
18 *that first becomes payable after the date on which the peti-*
19 *tion is filed” after “dependent of the debtor”.*

20 **SEC. 219. COLLECTION OF CHILD SUPPORT.**

21 *(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Sec-*
22 *tion 704 of title 11, United States Code, as amended by*
23 *section 102(b) of this Act, is amended—*

24 *(1) in subsection (a)—*

25 *(A) in paragraph (8), by striking “and” at*
26 *the end;*

1 (B) in paragraph (9), by striking the period
2 and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(10) if, with respect to an individual debtor,
5 there is a claim for a domestic support obligation,
6 provide the applicable notification specified in sub-
7 section (c).”; and

8 (2) by adding at the end the following:

9 “(c)(1) In any case described in subsection (a)(10), the
10 trustee shall—

11 “(A)(i) notify in writing the holder of the claim
12 of the right of that holder to use the services of a State
13 child support enforcement agency established under
14 sections 464 and 466 of the Social Security Act (42
15 U.S.C. 664 and 666, respectively) for the State in
16 which the holder resides for assistance in collecting
17 child support during and after the bankruptcy proce-
18 dures;

19 “(ii) include in the notice under this paragraph
20 the address and telephone number of the child support
21 enforcement agency; and

22 “(iii) include in the notice an explanation of the
23 rights of the holder of the claim to payment of the
24 claim under this chapter; and

1 “(B)(i) notify in writing the State child support
2 agency of the State in which the holder of the claim
3 resides of the claim;

4 “(ii) include in the notice under this paragraph
5 the name, address, and telephone number of the holder
6 of the claim; and

7 “(iii) at such time as the debtor is granted a dis-
8 charge under section 727, notify the holder of that
9 claim and the State child support agency of the State
10 in which that holder resides of—

11 “(I) the granting of the discharge;

12 “(II) the last recent known address of the
13 debtor;

14 “(III) the last recent known name and ad-
15 dress of the debtor’s employer; and

16 “(IV) with respect to the debtor’s case, the
17 name of each creditor that holds a claim that—

18 “(aa) is not discharged under para-
19 graph (2), (4), or (14A) of section 523(a);

20 or

21 “(bb) was reaffirmed by the debtor
22 under section 524(c).

23 “(2)(A) A holder of a claim or a State child support
24 agency may request from a creditor described in paragraph

25 (1)(B)(iii)(IV) the last known address of the debtor.

1 “(B) Notwithstanding any other provision of law, a
2 creditor that makes a disclosure of a last known address
3 of a debtor in connection with a request made under sub-
4 paragraph (A) shall not be liable to the debtor or any other
5 person by reason of making that disclosure.”.

6 (b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Sec-
7 tion 1106 of title 11, United States Code, is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (6), by striking “and” at
10 the end;

11 (B) in paragraph (7), by striking the period
12 and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(8) if, with respect to an individual debtor,
15 there is a claim for a domestic support obligation,
16 provide the applicable notification specified in sub-
17 section (c).”; and

18 (2) by adding at the end the following:

19 “(c)(1) In any case described in subsection (a)(7), the
20 trustee shall—

21 “(A)(i) notify in writing the holder of the claim
22 of the right of that holder to use the services of a State
23 child support enforcement agency established under
24 sections 464 and 466 of the Social Security Act (42

1 *U.S.C. 664 and 666) for the State in which the holder*
2 *resides; and*

3 “(i) include in the notice under this paragraph
4 *the address and telephone number of the child support*
5 *enforcement agency; and*

6 “(B)(i) notify, in writing, the State child sup-
7 *port agency (of the State in which the holder of the*
8 *claim resides) of the claim;*

9 “(ii) include in the notice under this paragraph
10 *the name, address, and telephone number of the holder*
11 *of the claim; and*

12 “(iii) at such time as the debtor is granted a dis-
13 *charge under section 1141, notify the holder of the*
14 *claim and the State child support agency of the State*
15 *in which that holder resides of—*

16 “(I) the granting of the discharge;

17 “(II) the last recent known address of the
18 *debtor;*

19 “(III) the last recent known name and ad-
20 *dress of the debtor’s employer; and*

21 “(IV) with respect to the debtor’s case, the
22 *name of each creditor that holds a claim that—*

23 “(aa) is not discharged under para-
24 *graph (2), (3), or (14) of section 523(a); or*

1 “(bb) was reaffirmed by the debtor
2 under section 524(c).

3 “(2)(A) A holder of a claim or a State child support
4 agency may request from a creditor described in paragraph
5 (1)(B)(iii)(IV) the last known address of the debtor.

6 “(B) Notwithstanding any other provision of law, a
7 creditor that makes a disclosure of a last known address
8 of a debtor in connection with a request made under sub-
9 paragraph (A) shall not be liable to the debtor or any other
10 person by reason of making that disclosure.”.

11 (c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Sec-
12 tion 1202 of title 11, United States Code, is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (4), by striking “and” at
15 the end;

16 (B) in paragraph (5), by striking the period
17 and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(6) if, with respect to an individual debtor,
20 there is a claim for a domestic support obligation,
21 provide the applicable notification specified in sub-
22 section (c).”; and

23 (2) by adding at the end the following:

24 “(c)(1) In any case described in subsection (b)(6), the
25 trustee shall—

1 “(A)(i) notify in writing the holder of the claim
2 of the right of that holder to use the services of a State
3 child support enforcement agency established under
4 sections 464 and 466 of the Social Security Act (42
5 U.S.C. 664 and 666) for the State in which the holder
6 resides; and

7 “(ii) include in the notice under this paragraph
8 the address and telephone number of the child support
9 enforcement agency; and

10 “(B)(i) notify, in writing, the State child sup-
11 port agency (of the State in which the holder of the
12 claim resides) of the claim;

13 “(ii) include in the notice under this paragraph
14 the name, address, and telephone number of the holder
15 of the claim; and

16 “(iii) at such time as the debtor is granted a dis-
17 charge under section 1228, notify the holder of the
18 claim and the State child support agency of the State
19 in which that holder resides of—

20 “(I) the granting of the discharge;

21 “(II) the last recent known address of the
22 debtor;

23 “(III) the last recent known name and ad-
24 dress of the debtor’s employer; and

1 “(IV) with respect to the debtor’s case, the
2 name of each creditor that holds a claim that—

3 “(aa) is not discharged under para-
4 graph (2), (3), or (14) of section 523(a); or

5 “(bb) was reaffirmed by the debtor
6 under section 524(c).

7 “(2)(A) A holder of a claim or a State child support
8 agency may request from a creditor described in paragraph
9 (1)(B)(iii)(IV) the last known address of the debtor.

10 “(B) Notwithstanding any other provision of law, a
11 creditor that makes a disclosure of a last known address
12 of a debtor in connection with a request made under sub-
13 paragraph (A) shall not be liable to the debtor or any other
14 person by reason of making that disclosure.”.

15 (d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Sec-
16 tion 1302 of title 11, United States Code, is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (4), by striking “and” at
19 the end;

20 (B) in paragraph (5), by striking the period
21 and inserting “; and”; and

22 (C) by adding at the end the following:

23 “(6) if, with respect to an individual debtor,
24 there is a claim for a domestic support obligation,

1 *provide the applicable notification specified in sub-*
2 *section (d); and*

3 *“(7) provide information relating to the admin-*
4 *istration of cases that is practical to any not-for-prof-*
5 *it entity which shall provide information to parties*
6 *in interest in a timely and convenient manner, in-*
7 *cluding telephonic and Internet access, at no cost or*
8 *a nominal cost.*

9 *An entity described in paragraph (7) shall provide*
10 *parties in interest with reasonable information about*
11 *each case on behalf of the trustee of that case, includ-*
12 *ing the status of the debtor’s payments to the plan,*
13 *the unpaid balance payable to each creditor treated*
14 *by the plan, and the amount and date of payments*
15 *made under the plan. The trustee shall have no duty*
16 *to provide information under paragraph (7) if no*
17 *such entity has been established.”; and*

18 *(2) by adding at the end the following:*

19 *“(d)(1) In any case described in subsection (b)(6), the*
20 *trustee shall—*

21 *“(A)(i) notify in writing the holder of the claim*
22 *of the right of that holder to use the services of a State*
23 *child support enforcement agency established under*
24 *sections 464 and 466 of the Social Security Act (42*

1 *U.S.C. 664 and 666, respectively) for the State in*
2 *which the holder resides; and*

3 “(i) include in the notice under this paragraph
4 *the address and telephone number of the child support*
5 *enforcement agency; and*

6 “(B)(i) notify in writing the State child support
7 *agency of the State in which the holder of the claim*
8 *resides of the claim;*

9 “(ii) include in the notice under this paragraph
10 *the name, address, and telephone number of the holder*
11 *of the claim; and*

12 “(iii) at such time as the debtor is granted a dis-
13 *charge under section 1328, notify the holder of the*
14 *claim and the State child support agency of the State*
15 *in which that holder resides of—*

16 “(I) the granting of the discharge;

17 “(II) the last recent known address of the
18 *debtor;*

19 “(III) the last recent known name and ad-
20 *dress of the debtor’s employer; and*

21 “(IV) with respect to the debtor’s case, the
22 *name of each creditor that holds a claim that—*

23 “(aa) is not discharged under para-
24 *graph (2), (3), or (14) of section 523(a); or*

1 “(bb) was reaffirmed by the debtor
2 under section 524(c).

3 “(2)(A) A holder of a claim or a State child support
4 agency may request from a creditor described in paragraph
5 (1)(B)(iii)(IV) the last known address of the debtor.

6 “(B) Notwithstanding any other provision of law, a
7 creditor that makes a disclosure of a last known address
8 of a debtor in connection with a request made under sub-
9 paragraph (A) shall not be liable to the debtor or any other
10 person by reason of making that disclosure.”.

11 **SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDU-**
12 **CATIONAL BENEFITS AND LOANS.**

13 Section 523(a) of title 11, United States Code, is
14 amended by striking paragraph (8) and inserting the fol-
15 lowing:

16 “(8) unless excepting such debt from discharge
17 under this paragraph would impose an undue hard-
18 ship on the debtor and the debtor’s dependents, for—

19 “(A)(i) an educational benefit overpayment
20 or loan made, insured, or guaranteed by a gov-
21 ernmental unit, or made under any program
22 funded in whole or in part by a governmental
23 unit or nonprofit institution; or

1 “(i) an obligation to repay funds received
2 as an educational benefit, scholarship, or sti-
3 pend; or

4 “(B) any other educational loan that is a
5 qualified education loan, as that term is defined
6 in section 221(e)(1) of the Internal Revenue Code
7 of 1986, incurred by an individual debtor;”.

8 ***Subtitle C—Other Consumer***
9 ***Protections***

10 ***SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANK-***
11 ***RUPTCY FILINGS.***

12 Section 110 of title 11, United States Code, is
13 amended—

14 (1) in subsection (a)(1), by inserting “, under
15 the direct supervision of an attorney,” after “who”;

16 (2) in subsection (b)—

17 (A) in paragraph (1), by adding at the end
18 the following: “If a bankruptcy petition preparer
19 is not an individual, then an officer, principal,
20 responsible person, or partner of the preparer
21 shall be required to—

22 “(A) sign the document for filing; and

23 “(B) print on the document the name and ad-
24 dress of that officer, principal, responsible person or
25 partner.”;

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

3 “(2)(A) Before preparing any document for filing or
4 accepting any fees from a debtor, the bankruptcy petition
5 preparer shall provide to the debtor a written notice to debt-
6 ors concerning bankruptcy petition preparers, which shall
7 be on an official form issued by the Judicial Conference
8 of the United States.

9 “(B) The notice under subparagraph (A)—

10 “(i) shall inform the debtor in simple language
11 that a bankruptcy petition preparer is not an attor-
12 ney and may not practice law or give legal advice;

13 “(ii) may contain a description of examples of
14 legal advice that a bankruptcy petition preparer is
15 not authorized to give, in addition to any advice that
16 the preparer may not give by reason of subsection
17 (e)(2); and

18 “(iii) shall—

19 “(I) be signed by—

20 “(aa) the debtor; and

21 “(bb) the bankruptcy petition preparer,
22 under penalty of perjury; and

23 “(II) be filed with any document for fil-
24 ing.”;

25 (3) in subsection (c)—

1 (A) in paragraph (2)—

2 (i) by striking “(2) For purposes” and
3 inserting “(2)(A) Subject to subparagraph
4 (B), for purposes”; and

5 (ii) by adding at the end the following:

6 “(B) If a bankruptcy petition preparer is not an indi-
7 vidual, the identifying number of the bankruptcy petition
8 preparer shall be the Social Security account number of the
9 officer, principal, responsible person, or partner of the pre-
10 parer.”; and

11 (B) by striking paragraph (3);

12 (4) in subsection (d)—

13 (A) by striking “(d)(1)” and inserting
14 “(d)”; and

15 (B) by striking paragraph (2);

16 (5) in subsection (e)—

17 (A) by striking paragraph (2); and

18 (B) by adding at the end the following:

19 “(2)(A) A bankruptcy petition preparer may not offer
20 a potential bankruptcy debtor any legal advice, including
21 any legal advice described in subparagraph (B).

22 “(B) The legal advice referred to in subparagraph (A)
23 includes advising the debtor—

24 (i) whether—

25 “(I) to file a petition under this title; or

1 “(II) commencing a case under chapter 7,
2 11, 12, or 13 is appropriate;

3 “(ii) whether the debtor’s debts will be eliminated
4 or discharged in a case under this title;

5 “(iii) whether the debtor will be able to retain
6 the debtor’s home, car, or other property after com-
7 mencing a case under this title;

8 “(iv) concerning—

9 “(I) the tax consequences of a case brought
10 under this title; or

11 “(II) the dischargeability of tax claims;

12 “(v) whether the debtor may or should promise
13 to repay debts to a creditor or enter into a reaffirma-
14 tion agreement with a creditor to reaffirm a debt;

15 “(vi) concerning how to characterize the nature
16 of the debtor’s interests in property or the debtor’s
17 debts; or

18 “(vii) concerning bankruptcy procedures and
19 rights.”;

20 (6) in subsection (f)—

21 (A) by striking “(f)(1)” and inserting “(f)”;

22 and

23 (B) by striking paragraph (2);

24 (7) in subsection (g)—

1 (A) by striking “(g)(1)” and inserting
2 “(g)”; and

3 (B) by striking paragraph (2);
4 (8) in subsection (h)—

5 (A) by redesignating paragraphs (1)
6 through (4) as paragraphs (2) through (5), re-
7 spectively;

8 (B) by inserting before paragraph (2), as so
9 redesignated, the following:

10 “(h)(1) The Supreme Court may promulgate rules
11 under section 2075 of title 28, or the Judicial Conference
12 of the United States may prescribe guidelines, for setting
13 a maximum allowable fee chargeable by a bankruptcy peti-
14 tion preparer. A bankruptcy petition preparer shall notify
15 the debtor of any such maximum amount before preparing
16 any document for filing for a debtor or accepting any fee
17 from the debtor.”;

18 (C) in paragraph (2), as redesignated by
19 subparagraph (A) of this paragraph—

20 (i) by striking “Within 10 days after
21 the date of filing a petition, a bankruptcy
22 petition preparer shall file a” and inserting
23 “A”;

1 (ii) by inserting “by the bankruptcy
2 petition preparer shall be filed together with
3 the petition,” after “perjury”; and

4 (iii) by adding at the end the fol-
5 lowing: “If rules or guidelines setting a
6 maximum fee for services have been promul-
7 gated or prescribed under paragraph (1),
8 the declaration under this paragraph shall
9 include a certification that the bankruptcy
10 petition preparer complied with the notifi-
11 cation requirement under paragraph (1).”;

12 (D) by striking paragraph (3), as redesign-
13 ated by subparagraph (A) of this paragraph,
14 and inserting the following:

15 “(3)(A) The court shall disallow and order the
16 immediate turnover to the bankruptcy trustee any fee
17 referred to in paragraph (2) found to be in excess of
18 the value of any services—

19 “(i) rendered by the preparer during the 12-
20 month period immediately preceding the date of
21 filing of the petition; or

22 “(ii) found to be in violation of any rule or
23 guideline promulgated or prescribed under para-
24 graph (1).

1 “(B) *All fees charged by a bankruptcy petition*
2 *preparer may be forfeited in any case in which the*
3 *bankruptcy petition preparer fails to comply with*
4 *this subsection or subsection (b), (c), (d), (e), (f), or*
5 *(g).*”

6 “(C) *An individual may exempt any funds re-*
7 *covered under this paragraph under section 522(b).”;*
8 *and*

9 (E) *in paragraph (4), as redesignated by*
10 *subparagraph (A) of this paragraph, by striking*
11 *“or the United States trustee” and inserting “the*
12 *United States trustee, or the court, on the initia-*
13 *tive of the court,”;*

14 (9) *in subsection (i)(1), by striking the matter*
15 *preceding subparagraph (A) and inserting the fol-*
16 *lowing:*

17 “(i) *If a bankruptcy petition preparer violates this sec-*
18 *tion or commits any act that the court finds to be fraudu-*
19 *lent, unfair, or deceptive, on motion of the debtor, trustee,*
20 *or United States trustee, and after the court holds a hearing*
21 *with respect to that violation or act, the court shall order*
22 *the bankruptcy petition preparer to pay to the debtor—”;*

23 (10) *in subsection (j)—*

24 (A) *in paragraph (2)—*

1 (i) in subparagraph (A)(i)(I), by strik-
2 ing “a violation of which subjects a person
3 to criminal penalty”;

4 (ii) in subparagraph (B)—

5 (I) by striking “or has not paid a
6 penalty” and inserting “has not paid
7 a penalty”; and

8 (II) by inserting “or failed to dis-
9 gorge all fees ordered by the court”
10 after “a penalty imposed under this
11 section,”;

12 (B) by redesignating paragraph (3) as
13 paragraph (4); and

14 (C) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) The court, as part of its contempt power, may
17 enjoin a bankruptcy petition preparer that has failed to
18 comply with a previous order issued under this section. The
19 injunction under this paragraph may be issued upon mo-
20 tion of the court, the trustee, or the United States trustee.”;
21 and

22 (11) by adding at the end the following:

23 “(l)(1) A bankruptcy petition preparer who fails to
24 comply with any provision of subsection (b), (c), (d), (e),

1 *(f), (g), or (h) may be fined not more than \$500 for each*
2 *such failure.*

3 “(2) *The court shall triple the amount of a fine as-*
4 *essed under paragraph (1) in any case in which the court*
5 *finds that a bankruptcy petition preparer—*

6 “(A) *advised the debtor to exclude assets or in-*
7 *come that should have been included on applicable*
8 *schedules;*

9 “(B) *advised the debtor to use a false Social Se-*
10 *curity account number;*

11 “(C) *failed to inform the debtor that the debtor*
12 *was filing for relief under this title; or*

13 “(D) *prepared a document for filing in a man-*
14 *ner that failed to disclose the identity of the preparer.*

15 “(3) *The debtor, the trustee, a creditor, or the United*
16 *States trustee may file a motion for an order imposing a*
17 *fine on the bankruptcy petition preparer for each violation*
18 *of this section.*

19 “(4) *All fines imposed under this section shall be paid*
20 *to the United States trustee, who shall deposit an amount*
21 *equal to such fines in a special account of the United States*
22 *Trustee System Fund referred to in section 586(e)(2) of title*
23 *28. Amounts deposited under this paragraph shall be avail-*
24 *able to fund the enforcement of this section on a national*
25 *basis.”.*

1 **SEC. 222. SENSE OF CONGRESS.**

2 *It is the sense of Congress that States should develop*
3 *curricula relating to the subject of personal finance, de-*
4 *signed for use in elementary and secondary schools.*

5 **SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED**
6 **STATES CODE.**

7 *(a) IN GENERAL.—Section 507(a) of title 11, United*
8 *States Code, as amended by section 212 of this Act, is*
9 *amended by inserting after paragraph (9) the following:*

10 *“(10) Tenth, allowed claims for death or per-*
11 *sonal injuries resulting from the operation of a motor*
12 *vehicle or vessel if such operation was unlawful be-*
13 *cause the debtor was intoxicated from using alcohol,*
14 *a drug, or another substance.”.*

15 *(b) VESSELS.—Section 523(a)(8) of title 11, United*
16 *States Code, is amended by inserting “or vessel” after “vehi-*
17 *cle”.*

18 **SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANK-**
19 **RUPTCY.**

20 *(a) IN GENERAL.—Section 522 of title 11, United*
21 *States Code, as amended by section 215 of this Act, is*
22 *amended—*

23 *(1) in subsection (b)—*

24 *(A) in paragraph (2)—*

25 *(i) by striking “(2)(A) any property”*
26 *and inserting:*

1 “(3) *Property listed in this paragraph is—*

2 “(A) *any property*”;

3 (ii) *in subparagraph (A), by striking*

4 “*and*” *at the end*;

5 (iii) *in subparagraph (B), by striking*

6 *the period at the end and inserting “; and”;*

7 *and*

8 (iv) *by adding at the end the following:*

9 “(C) *retirement funds to the extent that those*

10 *funds are in a fund or account that is exempt from*

11 *taxation under section 401, 403, 408, 408A, 414, 457,*

12 *or 501(a) of the Internal Revenue Code of 1986.”;*

13 (B) *by striking paragraph (1) and insert-*

14 *ing:*

15 “(2) *Property listed in this paragraph is property that*

16 *is specified under subsection (d), unless the State law that*

17 *is applicable to the debtor under paragraph (3)(A) specifi-*

18 *cally does not so authorize.”;*

19 (C) *in the matter preceding paragraph*

20 (2)—

21 (i) *by striking “(b)” and inserting*

22 “*(b)(1)*”;

23 (ii) *by striking “paragraph (2)” both*

24 *places it appears and inserting “paragraph*

25 *(3)”;*

1 (iii) by striking “paragraph (1)” each
2 place it appears and inserting “paragraph
3 (2)”; and

4 (iv) by striking “Such property is—”;
5 and

6 (D) by adding at the end of the subsection
7 the following:

8 “(4) For purposes of paragraph (3)(C) and subsection
9 (d)(12), the following shall apply:

10 “(A) If the retirement funds are in a retirement
11 fund that has received a favorable determination pur-
12 suant to section 7805 of the Internal Revenue Code of
13 1986, and that determination is in effect as of the
14 date of the commencement of the case under section
15 301, 302, or 303 of this title, those funds shall be pre-
16 sumed to be exempt from the estate.

17 “(B) If the retirement funds are in a retirement
18 fund that has not received a favorable determination
19 pursuant to such section 7805, those funds are exempt
20 from the estate if the debtor demonstrates that—

21 “(i) no prior determination to the contrary
22 has been made by a court or the Internal Rev-
23 enue Service; and

1 “(i)(I) the retirement fund is in substan-
2 tial compliance with the applicable requirements
3 of the Internal Revenue Code of 1986; or

4 “(II) the retirement fund fails to be in sub-
5 stantial compliance with the applicable require-
6 ments of the Internal Revenue Code of 1986 and
7 the debtor is not materially responsible for that
8 failure.

9 “(C) A direct transfer of retirement funds from
10 1 fund or account that is exempt from taxation under
11 section 401, 403, 408, 408A, 414, 457, or 501(a) of
12 the Internal Revenue Code of 1986, pursuant to sec-
13 tion 401(a)(31) of the Internal Revenue Code of 1986,
14 or otherwise, shall not cease to qualify for exemption
15 under paragraph (3)(C) or subsection (d)(12) by rea-
16 son of that direct transfer.

17 “(D)(i) Any distribution that qualifies as an eli-
18 gible rollover distribution within the meaning of sec-
19 tion 402(c) of the Internal Revenue Code of 1986 or
20 that is described in clause (ii) shall not cease to qual-
21 ify for exemption under paragraph (3)(C) or sub-
22 section (d)(12) by reason of that distribution.

23 “(ii) A distribution described in this clause is an
24 amount that—

1 “(I) has been distributed from a fund or ac-
2 count that is exempt from taxation under section
3 401, 403, 408, 408A, 414, 457, or 501(a) of the
4 Internal Revenue Code of 1986; and

5 “(II) to the extent allowed by law, is depos-
6 ited in such a fund or account not later than 60
7 days after the distribution of that amount.”; and
8 (2) in subsection (d)—

9 (A) in the matter preceding paragraph (1),
10 by striking “subsection (b)(1)” and inserting
11 “subsection (b)(2)”; and

12 (B) by adding at the end the following:

13 “(12) Retirement funds to the extent that those funds
14 are in a fund or account that is exempt from taxation under
15 section 401, 403, 408, 408A, 414, 457, or 501(a) of the In-
16 ternal Revenue Code of 1986.”.

17 (b) *AUTOMATIC STAY*.—Section 362(b) of title 11,
18 United States Code, as amended by section 214 of this Act,
19 is amended—

20 (1) in paragraph (18), by striking “or” at the
21 end;

22 (2) in paragraph (19), by striking the period
23 and inserting “; or”;

24 (3) by inserting after paragraph (19) the fol-
25 lowing:

1 “(20) under subsection (a), of withholding of in-
2 come from a debtor’s wages and collection of amounts
3 withheld, pursuant to the debtor’s agreement author-
4 izing that withholding and collection for the benefit of
5 a pension, profit-sharing, stock bonus, or other plan
6 established under section 401, 403, 408, 408A, 414,
7 457, or 501(a) of the Internal Revenue Code of 1986
8 that is sponsored by the employer of the debtor, or an
9 affiliate, successor, or predecessor of such employer—

10 “(A) to the extent that the amounts withheld
11 and collected are used solely for payments relat-
12 ing to a loan from a plan that satisfies the re-
13 quirements of section 408(b)(1) of the Employee
14 Retirement Income Security Act of 1974 or is
15 subject to section 72(p) of the Internal Revenue
16 Code of 1986; or

17 “(B) in the case of a loan from a thrift sav-
18 ings plan described in subchapter III of title 5,
19 that satisfies the requirements of section 8433(g)
20 of such title;”;

21 (4) by adding at the end of the flush material at
22 the end of the subsection, the following: “Nothing in
23 paragraph (20) may be construed to provide that any
24 loan made under a governmental plan under section
25 414(d), or a contract or account under section 403(b),

1 of the Internal Revenue Code of 1986 constitutes a
2 claim or a debt under this title.”

3 (c) *EXCEPTIONS TO DISCHARGE.*—Section 523(a) of
4 title 11, United States Code, is amended by adding at the
5 end the following:

6 “(18) owed to a pension, profit-sharing, stock
7 bonus, or other plan established under section 401,
8 403, 408, 408A, 414, 457, or 501(c) of the Internal
9 Revenue Code of 1986, pursuant to—

10 “(A) a loan permitted under section
11 408(b)(1) of the Employee Retirement Income
12 Security Act of 1974, or subject to section 72(p)
13 of the Internal Revenue Code of 1986; or

14 “(B) a loan from the thrift savings plan de-
15 scribed in subchapter III of title 5, that satisfies
16 the requirements of section 8433(g) of such title.

17 Nothing in paragraph (19) may be construed to pro-
18 vide that any loan made under a governmental plan
19 under section 414(d), or a contract or account under
20 section 403(b), of the Internal Revenue Code of 1986
21 constitutes a claim or a debt under this title.”

22 (d) *PLAN CONTENTS.*—Section 1322 of title 11, United
23 States Code, is amended by adding at the end the following:

24 “(f) A plan may not materially alter the terms of a
25 loan described in section 362(b)(20).”

1 **SEC. 225. PROTECTION OF EDUCATION SAVINGS.**

2 (a) *EXCLUSIONS.*—Section 541 of title 11, United
3 States Code, as amended by section 903, is amended—

4 (1) in subsection (b)—

5 (A) by redesignating paragraph (6) as
6 paragraph (8); and

7 (B) by inserting after paragraph (5) the fol-
8 lowing:

9 “(6) funds placed in an education individual re-
10 tirement account (as defined in section 530(b)(1) of
11 the Internal Revenue Code of 1986) not later than
12 365 days before the date of filing of the petition,
13 but—

14 “(A) only if the designated beneficiary of
15 such account was a son, daughter, stepson, step-
16 daughter, grandchild, or step-grandchild of the
17 debtor for the taxable year for which funds were
18 placed in such account;

19 “(B) only to the extent that such funds—

20 “(i) are not pledged or promised to
21 any entity in connection with any extension
22 of credit; and

23 “(ii) are not excess contributions (as
24 described in section 4973(e) of the Internal
25 Revenue Code of 1986); and

1 “(C) in the case of funds placed in all such
2 accounts having the same designated beneficiary
3 not earlier than 720 days nor later than 365
4 days before such date, only so much of such
5 funds as does not exceed \$5,000;

6 “(7) funds used to purchase a tuition credit or
7 certificate or contributed to an account in accordance
8 with section 529(b)(1)(A) of the Internal Revenue
9 Code of 1986 under a qualified State tuition program
10 (as defined in section 529(b)(1) of such Code) not
11 later than 365 days before the date of filing of the pe-
12 tition, but—

13 “(A) only if the designated beneficiary of
14 the amounts paid or contributed to such tuition
15 program was a son, daughter, stepson, step-
16 daughter, grandchild, or step-grandchild of the
17 debtor for the taxable year for which funds were
18 paid or contributed;

19 “(B) with respect to the aggregate amount
20 paid or contributed to such program having the
21 same designated beneficiary, only so much of
22 such amount as does not exceed the total con-
23 tributions permitted under section 529(b)(7) of
24 such Code with respect to such beneficiary, as
25 adjusted beginning on the date of the filing of the

1 *petition by the annual increase or decrease*
2 *(rounded to the nearest tenth of 1 percent) in the*
3 *education expenditure category of the Consumer*
4 *Price Index prepared by the Department of*
5 *Labor; and*

6 *“(C) in the case of funds paid or contrib-*
7 *uted to such program having the same designated*
8 *beneficiary not earlier than 720 days nor later*
9 *than 365 days before such date, only so much of*
10 *such funds as does not exceed \$5,000; or”;* and
11 *(2) by adding at the end the following:*

12 *“(g) In determining whether any of the relationships*
13 *specified in paragraph (6)(A) or (7)(A) of subsection (b)*
14 *exists, a legally adopted child of an individual (and a child*
15 *who is a member of an individual’s household, if placed*
16 *with such individual by an authorized placement agency*
17 *for legal adoption by such individual), or a foster child of*
18 *an individual (if such child has as the child’s principal*
19 *place of abode the home of the debtor and is a member of*
20 *the debtor’s household) shall be treated as a child of such*
21 *individual by blood.”.*

22 *(b) DEBTOR’S DUTIES.—Section 521 of title 11,*
23 *United States Code, as amended by sections 105(d),*
24 *304(c)(1), 305(2), 315(b), and 316 of this Act, is amended*
25 *by adding at the end the following:*

1 “(k) In addition to meeting the requirements under
2 subsection (a), a debtor shall file with the court a record
3 of any interest that a debtor has in an education individual
4 retirement account (as defined in section 530(b)(1) of the
5 Internal Revenue Code of 1986) or under a qualified State
6 tuition program (as defined in section 529(b)(1) of such
7 Code).”.

8 **TITLE III—DISCOURAGING**
9 **BANKRUPTCY ABUSE**

10 **SEC. 301. REINFORCEMENT OF THE FRESH START.**

11 Section 523(a)(17) of title 11, United States Code, is
12 amended—

13 (1) by striking “by a court” and inserting “on
14 a prisoner by any court”,

15 (2) by striking “section 1915(b) or (f)” and in-
16 serting “subsection (b) or (f)(2) of section 1915”, and

17 (3) by inserting “(or a similar non-Federal
18 law)” after “title 28” each place it appears.

19 **SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.**

20 Section 362(c) of title 11, United States Code, is
21 amended—

22 (1) in paragraph (1), by striking “and” at the
23 end;

24 (2) in paragraph (2), by striking the period at
25 the end and inserting a semicolon; and

1 (3) by adding at the end the following:

2 “(3) if a single or joint case is filed by or
3 against an individual debtor under chapter 7, 11, or
4 13, and if a single or joint case of the debtor was
5 pending within the preceding 1-year period but was
6 dismissed, other than a case refiled under a chapter
7 other than chapter 7 after dismissal under section
8 707(b)—

9 “(A) the stay under subsection (a) with re-
10 spect to any action taken with respect to a debt
11 or property securing such debt or with respect to
12 any lease will terminate with respect to the debt-
13 or on the 30th day after the filing of the later
14 case;

15 “(B) upon motion by a party in interest for
16 continuation of the automatic stay and upon no-
17 tice and a hearing, the court may extend the
18 stay in particular cases as to any or all creditors
19 (subject to such conditions or limitations as the
20 court may then impose) after notice and a hear-
21 ing completed before the expiration of the 30-day
22 period only if the party in interest demonstrates
23 that the filing of the later case is in good faith
24 as to the creditors to be stayed; and

1 “(C) for purposes of subparagraph (B), a
2 case is presumptively filed not in good faith (but
3 such presumption may be rebutted by clear and
4 convincing evidence to the contrary)—

5 “(i) as to all creditors, if—

6 “(I) more than 1 previous case
7 under any of chapter 7, 11, or 13 in
8 which the individual was a debtor was
9 pending within the preceding 1-year
10 period;

11 “(II) a previous case under any of
12 chapter 7, 11, or 13 in which the indi-
13 vidual was a debtor was dismissed
14 within such 1-year period, after the
15 debtor failed to—

16 “(aa) file or amend the peti-
17 tion or other documents as re-
18 quired by this title or the court
19 without substantial excuse (but
20 mere inadvertence or negligence
21 shall not be a substantial excuse
22 unless the dismissal was caused
23 by the negligence of the debtor’s
24 attorney);

1 “(bb) provide adequate pro-
2 tection as ordered by the court; or

3 “(cc) perform the terms of a
4 plan confirmed by the court; or

5 “(III) there has not been a sub-
6 stantial change in the financial or per-
7 sonal affairs of the debtor since the dis-
8 missal of the next most previous case
9 under chapter 7, 11, or 13 or any other
10 reason to conclude that the later case
11 will be concluded—

12 “(aa) if a case under chapter
13 7, with a discharge; or

14 “(bb) if a case under chapter
15 11 or 13, with a confirmed plan
16 which will be fully performed; and

17 “(ii) as to any creditor that com-
18 menced an action under subsection (d) in a
19 previous case in which the individual was
20 a debtor if, as of the date of dismissal of
21 such case, that action was still pending or
22 had been resolved by terminating, condi-
23 tioning, or limiting the stay as to actions of
24 such creditor; and

1 “(4)(A)(i) if a single or joint case is filed by or
2 against an individual debtor under this title, and if
3 2 or more single or joint cases of the debtor were
4 pending within the previous year but were dismissed,
5 other than a case refiled under section 707(b), the
6 stay under subsection (a) shall not go into effect upon
7 the filing of the later case; and

8 “(ii) on request of a party in interest, the court
9 shall promptly enter an order confirming that no stay
10 is in effect;

11 “(B) if, within 30 days after the filing of the
12 later case, a party in interest requests the court may
13 order the stay to take effect in the case as to any or
14 all creditors (subject to such conditions or limitations
15 as the court may impose), after notice and hearing,
16 only if the party in interest demonstrates that the fil-
17 ing of the later case is in good faith as to the creditors
18 to be stayed;

19 “(C) a stay imposed under subparagraph (B)
20 shall be effective on the date of entry of the order al-
21 lowing the stay to go into effect; and

22 “(D) for purposes of subparagraph (B), a case is
23 presumptively not filed in good faith (but such pre-
24 sumption may be rebutted by clear and convincing
25 evidence to the contrary)—

1 “(i) as to all creditors if—

2 “*(I) 2 or more previous cases under*
3 *this title in which the individual was a*
4 *debtor were pending within the 1-year pe-*
5 *riod;*

6 “*(II) a previous case under this title in*
7 *which the individual was a debtor was dis-*
8 *missed within the time period stated in this*
9 *paragraph after the debtor failed to file or*
10 *amend the petition or other documents as*
11 *required by this title or the court without*
12 *substantial excuse (but mere inadvertence or*
13 *negligence shall not be substantial excuse*
14 *unless the dismissal was caused by the neg-*
15 *ligence of the debtor’s attorney), failed to*
16 *pay adequate protection as ordered by the*
17 *court, or failed to perform the terms of a*
18 *plan confirmed by the court; or*

19 “*(III) there has not been a substantial*
20 *change in the financial or personal affairs*
21 *of the debtor since the dismissal of the next*
22 *most previous case under this title, or any*
23 *other reason to conclude that the later case*
24 *will not be concluded, if a case under chap-*
25 *ter 7, with a discharge, and if a case under*

1 *chapter 11 or 13, with a confirmed plan*
2 *that will be fully performed; or*

3 “(i) as to any creditor that commenced an
4 action under subsection (d) in a previous case in
5 which the individual was a debtor if, as of the
6 date of dismissal of such case, such action was
7 still pending or had been resolved by termi-
8 nating, conditioning, or limiting the stay as to
9 action of such creditor.”.

10 **SEC. 303. CURBING ABUSIVE FILINGS.**

11 (a) *IN GENERAL.*—Section 362(d) of title 11, United
12 States Code, is amended—

13 (1) in paragraph (2), by striking “or” at the
14 end;

15 (2) in paragraph (3), by striking the period at
16 the end and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(4) with respect to a stay of an act against real
19 property under subsection (a), by a creditor whose
20 claim is secured by an interest in such real estate, if
21 the court finds that the filing of the bankruptcy peti-
22 tion was part of a scheme to delay, hinder, and de-
23 fraud creditors that involved either—

24 “(A) transfer of all or part ownership of, or
25 other interest in, the real property without the

1 *consent of the secured creditor or court approval;*

2 *or*

3 *“(B) multiple bankruptcy filings affecting*

4 *the real property.*

5 *If recorded in compliance with applicable State laws gov-*
6 *erning notices of interests or liens in real property, an order*
7 *entered under this subsection shall be binding in any other*
8 *case under this title purporting to affect the real property*
9 *filed not later than 2 years after that recording, except that*
10 *a debtor in a subsequent case may move for relief from such*
11 *order based upon changed circumstances or for good cause*
12 *shown, after notice and a hearing.”.*

13 *(b) AUTOMATIC STAY.—Section 362(b) of title 11,*
14 *United States Code, as amended by section 224 of this Act,*
15 *is amended—*

16 *(1) in paragraph (19), by striking “or” at the*
17 *end;*

18 *(2) in paragraph (20), by striking the period at*
19 *the end; and*

20 *(3) by inserting after paragraph (20) the fol-*
21 *lowing:*

22 *“(21) under subsection (a), of any act to enforce*
23 *any lien against or security interest in real property*
24 *following the entry of an order under section*
25 *362(d)(4) as to that property in any prior bank-*

1 *ruptcy case for a period of 2 years after entry of such*
2 *an order, except that the debtor, in a subsequent case,*
3 *may move the court for relief from such order based*
4 *upon changed circumstances or for other good cause*
5 *shown, after notice and a hearing; or*

6 *“(22) under subsection (a), of any act to enforce*
7 *any lien against or security interest in real*
8 *property—*

9 *“(A) if the debtor is ineligible under section*
10 *109(g) to be a debtor in a bankruptcy case; or*

11 *“(B) if the bankruptcy case was filed in*
12 *violation of a bankruptcy court order in a prior*
13 *bankruptcy case prohibiting the debtor from*
14 *being a debtor in another bankruptcy case.”.*

15 *(c) MODIFICATION OF A RESTRICTION RELATING TO*
16 *WAIVERS.—Section 522(e) of title 11, United States Code,*
17 *is amended—*

18 *(1) in the first sentence, by striking “subsection*
19 *(b) of this section” and inserting “subsection (b),*
20 *other than under paragraph (3)(C) of that sub-*
21 *section”; and*

22 *(2) in the second sentence—*

23 *(A) by inserting “(other than property de-*
24 *scribed in subsection (b)(3)(C))” after “property”*
25 *each place it appears; and*

1 (B) by inserting “(other than a transfer of
2 property described in subsection (b)(3)(C))” after
3 “transfer” each place it appears.

4 **SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY**
5 **SECURITY.**

6 *Title 11, United States Code, is amended—*

7 (1) *in section 521(a), as so redesignated by sec-*
8 *tion 106(d) of this Act—*

9 (A) *in paragraph (4), by striking “and” at*
10 *the end;*

11 (B) *in paragraph (5), by striking the period*
12 *at the end and inserting “; and”; and*

13 (C) *by adding at the end the following:*

14 “(6) *in an individual case under chapter 7, not*
15 *retain possession of personal property as to which a*
16 *creditor has an allowed claim for the purchase price*
17 *secured in whole or in part by an interest in that*
18 *personal property unless, in the case of an individual*
19 *debtor, the debtor within 45 days after the first meet-*
20 *ing of creditors under section 341(a)—*

21 “(A) *enters into an agreement with the*
22 *creditor under section 524(c) with respect to the*
23 *claim secured by such property; or*

24 “(B) *redeems such property from the secu-*
25 *rity interest under section 722.”; and*

1 (D) by adding at the end the following:

2 “(c) For purposes of subsection (a)(6), if the debtor
3 fails to so act within the 45-day period specified in sub-
4 section (a)(6), the personal property affected shall no longer
5 be property of the estate, and the creditor may take what-
6 ever action as to such property as is permitted by applica-
7 ble nonbankruptcy law, unless the court determines on the
8 motion of the trustee, and after notice and a hearing, that
9 such property is of consequential value or benefit to the es-
10 tate.”; and

11 (2) in section 722, by inserting “in full at the
12 time of redemption” before the period at the end.

13 **SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE**
14 **DEBTOR DOES NOT COMPLETE INTENDED**
15 **SURRENDER OF CONSUMER DEBT COLLAT-**
16 **ERAL.**

17 Title 11, United States Code, is amended—

18 (1) in section 362—

19 (A) in subsection (c), by striking “(e), and
20 (f)” and inserting “(e), (f), and (h)”;

21 (B) by redesignating subsection (h), as
22 amended by section 227 of this Act, as subsection
23 (j) and by inserting after subsection (g) the fol-
24 lowing:

1 “(h)(1) Subject to paragraph (2), in an individual
2 case under chapter 7, 11, or 13 the stay provided by sub-
3 section (a) is terminated with respect to property of the es-
4 tate securing in whole or in part a claim, or subject to an
5 unexpired lease, if the debtor fails within the applicable pe-
6 riod of time set by section 521(a)(2) to—

7 “(A) file timely any statement of intention re-
8 quired under section 521(a)(2) with respect to that
9 property or to indicate therein that the debtor—

10 “(i) will either surrender the property or re-
11 tain the property; and

12 “(ii) if retaining the property, will, as
13 applicable—

14 “(I) redeem the property under section
15 722;

16 “(II) reaffirm the debt the property se-
17 cures under section 524(c); or

18 “(III) assume the unexpired lease
19 under section 365(p) if the trustee does not
20 do so; or

21 “(B) take timely the action specified in that
22 statement of intention, as the statement may be
23 amended before expiration of the period for taking ac-
24 tion, unless the statement of intention specifies reaff-

1 *firmation and the creditor refuses to reaffirm on the*
2 *original contract terms.*

3 “(2) Paragraph (1) shall not apply if the court deter-
4 *mines on the motion of the trustee, and after notice and*
5 *a hearing, that such property is of consequential value or*
6 *benefit to the estate.”; and*

7 *(2) in section 521, as amended by section 304 of*
8 *this Act—*

9 *(A) in subsection (a)(2), as redesignated by*
10 *section 106(d) of this Act—*

11 *(i) by striking “consumer”;*

12 *(ii) in subparagraph (B)—*

13 *(I) by striking “forty-five days*
14 *after the filing of a notice of intent*
15 *under this section” and inserting “30*
16 *days after the first date set for the*
17 *meeting of creditors under section*
18 *341(a)”;* and

19 *(II) by striking “forty-five day*
20 *period” and inserting “30-day period”;*
21 *and*

22 *(iii) in subparagraph (C), by inserting*
23 *“except as provided in section 362(h)” be-*
24 *fore the semicolon; and*

25 *(B) by adding at the end the following:*

1 “(d) If the debtor fails timely to take the action speci-
 2 fied in subsection (a)(6), or in paragraph (1) or (2) of sec-
 3 tion 362(h), with respect to property which a lessor or bail-
 4 or owns and has leased, rented, or bailed to the debtor or
 5 as to which a creditor holds a security interest not otherwise
 6 voidable under section 522(f), 544, 545, 547, 548, or 549,
 7 nothing in this title shall prevent or limit the operation
 8 of a provision in the underlying lease or agreement that
 9 has the effect of placing the debtor in default under that
 10 lease or agreement by reason of the occurrence, pendency,
 11 or existence of a proceeding under this title or the insol-
 12 vency of the debtor. Nothing in this subsection shall be
 13 deemed to justify limiting such a provision in any other
 14 circumstance.”.

15 **SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT**

16 **IN CHAPTER 13.**

17 (a) *IN GENERAL.*—Section 1325(a)(5)(B)(i) of title 11,
 18 *United States Code*, is amended to read as follows:

19 “(i) the plan provides that—

20 “(I) the holder of such claim retain the
 21 lien securing such claim until the earlier
 22 of—

23 “(aa) the payment of the under-
 24 lying debt determined under nonbank-
 25 ruptcy law; or

1 “(bb) discharge under section
2 1328; and

3 “(II) if the case under this chapter is
4 dismissed or converted without completion
5 of the plan, such lien shall also be retained
6 by such holder to the extent recognized by
7 applicable nonbankruptcy law; and”.

8 (b) *RESTORING THE FOUNDATION FOR SECURED*
9 *CREDIT.*—Section 1325(a) of title 11, United States Code,
10 is amended by adding at the end the following flush sen-
11 tence:

12 “For purposes of paragraph (5), section 506 shall not apply
13 to a claim described in that paragraph if the debt that is
14 the subject of the claim was incurred within the 5-year pe-
15 riod preceding the filing of the petition and the collateral
16 for that debt consists of a motor vehicle (as defined in sec-
17 tion 30102 of title 49) acquired for the personal use of the
18 debtor, or if collateral for that debt consists of any other
19 thing of value, if the debt was incurred during the 6-month
20 period preceding that filing.”.

21 (c) *DEFINITIONS.*—Section 101 of title 11, United
22 States Code, as amended by section 211 of this Act, is
23 amended—

24 (1) by inserting after paragraph (13) the fol-
25 lowing:

1 “(13A) ‘debtor’s principal residence’—

2 “(A) means a residential structure, includ-
3 ing incidental property, without regard to
4 whether that structure is attached to real prop-
5 erty; and

6 “(B) includes an individual condominium
7 or cooperative unit;”; and

8 (2) by inserting after paragraph (27), the fol-
9 lowing:

10 “(27A) ‘incidental property’ means, with respect
11 to a debtor’s principal residence—

12 “(A) property commonly conveyed with a
13 principal residence in the area where the real es-
14 tate is located;

15 “(B) all easements, rights, appurtenances,
16 fixtures, rents, royalties, mineral rights, oil or
17 gas rights or profits, water rights, escrow funds,
18 or insurance proceeds; and

19 “(C) all replacements or additions;”.

20 **SEC. 307. EXEMPTIONS.**

21 Section 522(b)(3)(A) of title 11, United States Code,
22 as so designated by section 224 of this Act, is amended—

23 (1) by striking “180” and inserting “730”; and

24 (2) by striking “, or for a longer portion of such
25 180-day period than in any other place”.

1 **SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EX-**
2 **EMPTION.**

3 *Section 522 of title 11, United States Code, as amend-*
4 *ed by section 307 of this Act, is amended—*

5 *(1) in subsection (b)(3)(A), by inserting “subject*
6 *to subsection (n),” before “any property”; and*

7 *(2) by adding at the end the following:*

8 *“(n) For purposes of subsection (b)(3)(A), and not-*
9 *withstanding subsection (a), the value of an interest in—*

10 *“(1) real or personal property that the debtor or*
11 *a dependent of the debtor uses as a residence;*

12 *“(2) a cooperative that owns property that the*
13 *debtor or a dependent of the debtor uses as a resi-*
14 *dence; or*

15 *“(3) a burial plot for the debtor or a dependent*
16 *of the debtor;*

17 *shall be reduced to the extent such value is attributable to*
18 *any portion of any property that the debtor disposed of in*
19 *the 730-day period ending on the date of the filing of the*
20 *petition, with the intent to hinder, delay, or defraud a cred-*
21 *itor and that the debtor could not exempt, or that portion*
22 *that the debtor could not exempt, under subsection (b) if*
23 *on such date the debtor had held the property so disposed*
24 *of.”.*

1 **SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER**
2 **13 CASES.**

3 (a) *STOPPING ABUSIVE CONVERSIONS FROM CHAPTER*
4 *13.—Section 348(f)(1) of title 11, United States Code, is*
5 *amended—*

6 (1) *in subparagraph (A), by striking “and” at*
7 *the end;*

8 (2) *in subparagraph (B)—*

9 (A) *by striking “in the converted case, with*
10 *allowed secured claims” and inserting “only in*
11 *a case converted to chapter 11 or 12 but not in*
12 *a case converted to chapter 7, with allowed se-*
13 *cured claims in cases under chapters 11 and*
14 *12”; and*

15 (B) *by striking the period and inserting “;*
16 *and”; and*

17 (3) *by adding at the end the following:*

18 “(C) *with respect to cases converted from chapter*
19 *13—*

20 “(i) *the claim of any creditor holding secu-*
21 *rity as of the date of the petition shall continue*
22 *to be secured by that security unless the full*
23 *amount of such claim determined under applica-*
24 *ble nonbankruptcy law has been paid in full as*
25 *of the date of conversion, notwithstanding any*
26 *valuation or determination of the amount of an*

1 *allowed secured claim made for the purposes of*
2 *the chapter 13 proceeding; and*

3 “(i) unless a prebankruptcy default has
4 been fully cured under the plan at the time of
5 conversion, in any proceeding under this title or
6 otherwise, the default shall have the effect given
7 under applicable nonbankruptcy law.”.

8 (b) *GIVING DEBTORS THE ABILITY TO KEEP LEASED*
9 *PERSONAL PROPERTY BY ASSUMPTION.*—Section 365 of
10 *title 11, United States Code, is amended by adding at the*
11 *end the following:*

12 “(p)(1) *If a lease of personal property is rejected or*
13 *not timely assumed by the trustee under subsection (d), the*
14 *leased property is no longer property of the estate and the*
15 *stay under section 362(a) is automatically terminated.*

16 “(2)(A) *In the case of an individual under chapter 7,*
17 *the debtor may notify the creditor in writing that the debtor*
18 *desires to assume the lease. Upon being so notified, the cred-*
19 *itor may, at its option, notify the debtor that it is willing*
20 *to have the lease assumed by the debtor and may condition*
21 *such assumption on cure of any outstanding default on*
22 *terms set by the contract.*

23 “(B) *If within 30 days after notice is provided under*
24 *subparagraph (A), the debtor notifies the lessor in writing*

1 *that the lease is assumed, the liability under the lease will*
 2 *be assumed by the debtor and not by the estate.*

3 “(C) *The stay under section 362 and the injunction*
 4 *under section 524(a)(2) shall not be violated by notification*
 5 *of the debtor and negotiation of cure under this subsection.*

6 “(3) *In a case under chapter 11 in which the debtor*
 7 *is an individual and in a case under chapter 13, if the*
 8 *debtor is the lessee with respect to personal property and*
 9 *the lease is not assumed in the plan confirmed by the court,*
 10 *the lease is deemed rejected as of the conclusion of the hear-*
 11 *ing on confirmation. If the lease is rejected, the stay under*
 12 *section 362 and any stay under section 1301 is automati-*
 13 *cally terminated with respect to the property subject to the*
 14 *lease.”.*

15 (c) *ADEQUATE PROTECTION OF LESSORS AND PUR-*
 16 *CHASE MONEY SECURED CREDITORS.—*

17 (1) *CONFIRMATION OF PLAN.—Section*
 18 *1325(a)(5)(B) of title 11, United States Code, is*
 19 *amended—*

20 (A) *in clause (i), by striking “and” at the*
 21 *end;*

22 (B) *in clause (ii), by striking “or” at the*
 23 *end and inserting “and”; and*

24 (C) *by adding at the end the following:*

25 “(iii) *if—*

1 “(I) property to be distributed
2 pursuant to this subsection is in the
3 form of periodic payments, such pay-
4 ments shall be in equal monthly
5 amounts; and

6 “(II) the holder of the claim is se-
7 cured by personal property the amount
8 of such payments shall not be less than
9 an amount sufficient to provide to the
10 holder of such claim adequate protec-
11 tion during the period of the plan; or”.

12 (2) *PAYMENTS.*—Section 1326(a) of title 11,
13 United States Code, is amended to read as follows:

14 “(a)(1) Unless the court orders otherwise, the debtor
15 shall—

16 “(A) commence making the payments proposed
17 by a plan within 30 days after the plan is filed; or

18 “(B) if no plan is filed then as specified in the
19 proof of claim, within 30 days after the order for re-
20 lief or within 15 days after the plan is filed, which-
21 ever is earlier.

22 “(2) A payment made under this section shall be re-
23 tained by the trustee until confirmation, denial of con-
24 firmation, or paid by the trustee as adequate protection
25 payments in accordance with paragraph (3). If a plan is

1 *confirmed, the trustee shall distribute any such payment in*
2 *accordance with the plan as soon as is practicable. If a plan*
3 *is not confirmed, the trustee shall return any such payments*
4 *not previously paid and not yet due and owing to creditors*
5 *pursuant to paragraph (3) to the debtor, after deducting*
6 *any unpaid claim allowed under section 503(b).*

7 “(3)(A) *As soon as is practicable, and not later than*
8 *40 days after the filing of the case, the trustee shall—*

9 “(i) *pay from payments made under this section*
10 *the adequate protection payments proposed in the*
11 *plan; or*

12 “(ii) *if no plan is filed then, according to the*
13 *terms of the proof of claim.*

14 “(B) *The court may, upon notice and a hearing, mod-*
15 *ify, increase, or reduce the payments required under this*
16 *paragraph pending confirmation of a plan.”.*

17 **SEC. 310. LIMITATION ON LUXURY GOODS.**

18 *Section 523(a)(2)(C) of title 11, United States Code,*
19 *is amended to read as follows:*

20 “(C)(i) *for purposes of subparagraph (A)—*

21 “(I) *consumer debts owed to a single cred-*
22 *itor and aggregating more than \$250 for luxury*
23 *goods or services incurred by an individual debt-*
24 *or on or within 90 days before the order for relief*

1 *under this title are presumed to be nondischarge-*
2 *able; and*

3 “(II) *cash advances aggregating more than*
4 *\$750 that are extensions of consumer credit*
5 *under an open end credit plan obtained by an*
6 *individual debtor on or within 70 days before the*
7 *order for relief under this title, are presumed to*
8 *be nondischargeable; and*

9 “(i) *for purposes of this subparagraph—*

10 “(I) *the term ‘extension of credit under an*
11 *open end credit plan’ means an extension of*
12 *credit under an open end credit plan, within the*
13 *meaning of the Consumer Credit Protection Act*
14 *(15 U.S.C. 1601 et seq.);*

15 “(II) *the term ‘open end credit plan’ has the*
16 *meaning given that term under section 103 of*
17 *Consumer Credit Protection Act (15 U.S.C.*
18 *1602); and*

19 “(III) *the term ‘luxury goods or services’*
20 *does not include goods or services reasonably nec-*
21 *essary for the support or maintenance of the*
22 *debtor or a dependent of the debtor.”.*

23 **SEC. 311. AUTOMATIC STAY.**

24 *Section 362(b) of title 11, United States Code, as*
25 *amended by section 303(b) of this Act, is amended—*

1 (1) *in paragraph (21), by striking “or” at the*
2 *end;*

3 (2) *in paragraph (22), by striking the period at*
4 *the end and inserting a semicolon; and*

5 (3) *by inserting after paragraph (22) the fol-*
6 *lowing:*

7 “(23) *under subsection (a)(3), of the continu-*
8 *ation of any eviction, unlawful detainer action, or*
9 *similar proceeding by a lessor against a debtor in-*
10 *volving residential real property in which the debtor*
11 *resides as a tenant under a rental agreement;*

12 “(24) *under subsection (a)(3), of the commence-*
13 *ment of any eviction, unlawful detainer action, or*
14 *similar proceeding by a lessor against a debtor in-*
15 *volving residential real property in which the debtor*
16 *resides as a tenant under a rental agreement that has*
17 *terminated under the lease agreement or applicable*
18 *State law; or*

19 “(25) *under subsection (a)(3), of eviction actions*
20 *based on endangerment to property or person or the*
21 *use of illegal drugs.”.*

22 **SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY**
23 **DISCHARGES.**

24 *Title 11, United States Code, is amended—*

1 (1) in section 727(a)(8), by striking “six” and
2 inserting “8”; and

3 (2) in section 1328, by inserting after subsection
4 (e) the following:

5 “(f) Notwithstanding subsections (a) and (b), the court
6 shall not grant a discharge of all debts provided for by the
7 plan or disallowed under section 502 if the debtor has re-
8 ceived a discharge in any case filed under this title within
9 5 years before the order for relief under this chapter.”.

10 **SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND AN-**
11 **TIQUES.**

12 Section 522(f) of title 11, United States Code, is
13 amended by adding at the end the following:

14 “(4)(A) Subject to subparagraph (B), for pur-
15 poses of paragraph (1)(B), the term ‘household goods’
16 means—

17 “(i) clothing;

18 “(ii) furniture;

19 “(iii) appliances;

20 “(iv) 1 radio;

21 “(v) 1 television;

22 “(vi) 1 VCR;

23 “(vii) linens;

24 “(viii) china;

25 “(ix) crockery;

1 “(x) kitchenware;

2 “(xi) educational materials and educational
3 equipment primarily for the use of minor de-
4 pendent children of the debtor, but only 1 per-
5 sonal computer only if used primarily for the
6 education or entertainment of such minor chil-
7 dren;

8 “(xii) medical equipment and supplies;

9 “(xiii) furniture exclusively for the use of
10 minor children, or elderly or disabled dependents
11 of the debtor; and

12 “(xiv) personal effects (including wedding
13 rings and the toys and hobby equipment of
14 minor dependent children) of the debtor and the
15 dependents of the debtor.

16 “(B) The term ‘household goods’ does not
17 include—

18 “(i) works of art (unless by or of the debtor
19 or the dependents of the debtor);

20 “(ii) electronic entertainment equipment
21 (except 1 television, 1 radio, and 1 VCR);

22 “(iii) items acquired as antiques;

23 “(iv) jewelry (except wedding rings); and

24 “(v) a computer (except as otherwise pro-
25 vided for in this section), motor vehicle (includ-

1 *ing a tractor or lawn tractor), boat, or a motor-*
2 *ized recreational device, conveyance, vehicle,*
3 *watercraft, or aircraft.”.*

4 **SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE**
5 **DEBTS.**

6 *(a) IN GENERAL.—Section 523(a) of title 11, United*
7 *States Code, is amended by inserting after paragraph (14)*
8 *the following:*

9 *“(14A)(A) incurred to pay a debt that is non-*
10 *dischargeable by reason of section 727, 1141, 1228(a),*
11 *1228(b), or 1328(b), or any other provision of this*
12 *subsection, if the debtor incurred the debt to pay such*
13 *a nondischargeable debt with the intent to discharge*
14 *in bankruptcy the newly created debt; except that*

15 *“(B) all debts incurred to pay nondischargeable*
16 *debts shall be presumed to be nondischargeable debts*
17 *if incurred within 70 days before the filing of the pe-*
18 *tition (except that, in any case in which there is an*
19 *allowed claim under section 502 for child support or*
20 *spousal support entitled to priority under section*
21 *507(a)(1) and that was filed in a timely manner,*
22 *debts that would otherwise be presumed to be non-*
23 *dischargeable debts by reason of this subparagraph*
24 *shall be treated as dischargeable debts);”.*

1 (b) *DISCHARGE UNDER CHAPTER 13.*—Section
 2 1328(a) of title 11, United States Code, is amended by strik-
 3 ing paragraphs (1) through (3) and inserting the following:

4 “(1) provided for under section 1322(b)(5);

5 “(2) of the kind specified in paragraph (2), (3),
 6 (4), (7), or (8), of section 523(a);

7 “(3) for restitution, or a criminal fine, included
 8 in a sentence on the debtor’s conviction of a crime; or

9 “(4) for restitution, or damages, awarded in a
 10 civil action against the debtor as a result of willful
 11 or malicious injury by the debtor that caused per-
 12 sonal injury to an individual or the death of an indi-
 13 vidual.”.

14 **SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7**
 15 **AND 13 CASES.**

16 (a) *NOTICE.*—Section 342 of title 11, United States
 17 Code, is amended—

18 (1) in subsection (c)—

19 (A) by inserting “(1)” after “(c)”; and

20 (B) by striking “, but the failure of such no-
 21 tice to contain such information shall not invali-
 22 date the legal effect of such notice”; and

23 (2) by adding at the end the following:

24 “(d) At any time, a creditor, in a case of an individual
 25 debtor under chapter 7 or 13, may file with the court and

1 *serve on the debtor a notice of the address to be used to*
2 *notify the creditor in that case. Five days after receipt of*
3 *such notice, if the court or the debtor is required to give*
4 *the creditor notice, such notice shall be given at that ad-*
5 *dress.*

6 “(e) *An entity may file with the court a notice stating*
7 *its address for notice in cases under chapters 7 and 13.*
8 *After 30 days following the filing of such notice, any notice*
9 *in any case filed under chapter 7 or 13 given by the court*
10 *shall be to that address unless specific notice is given under*
11 *subsection (d) with respect to a particular case.*

12 “(f)(1) *Notice given to a creditor other than as pro-*
13 *vided in this section shall not be effective notice until that*
14 *notice has been brought to the attention of the creditor. If*
15 *the creditor designates a person or department to be respon-*
16 *sible for receiving notices concerning bankruptcy cases and*
17 *establishes reasonable procedures so that bankruptcy notices*
18 *received by the creditor are to be delivered to such depart-*
19 *ment or person, notice shall not be considered to have been*
20 *brought to the attention of the creditor until received by*
21 *such person or department.*

22 “(2) *No sanction under section 362(h) or any other*
23 *sanction that a court may impose on account of violations*
24 *of the stay under section 362(a) or failure to comply with*
25 *section 542 or 543 may be imposed on any action of the*

1 creditor unless the action takes place after the creditor has
2 received notice of the commencement of the case effective
3 under this section.”.

4 (b) *DEBTOR’S DUTIES*.—Section 521 of title 11,
5 United States Code, as amended by section 305 of this Act,
6 is amended—

7 (1) in subsection (a), by striking paragraph (1)
8 and inserting the following:

9 “(1) file—

10 “(A) a list of creditors; and

11 “(B) unless the court orders otherwise—

12 “(i) a schedule of assets and liabilities;

13 “(ii) a schedule of current income and
14 current expenditures;

15 “(iii) a statement of the debtor’s finan-
16 cial affairs and, if applicable, a
17 certificate—

18 “(I) of an attorney whose name is
19 on the petition as the attorney for the
20 debtor or any bankruptcy petition pre-
21 parer signing the petition under sec-
22 tion 110(b)(1) indicating that such at-
23 torney or bankruptcy petition preparer
24 delivered to the debtor any notice re-
25 quired by section 342(b); or

1 “(II) if no attorney for the debtor
2 is indicated and no bankruptcy peti-
3 tion preparer signed the petition, of the
4 debtor that such notice was obtained
5 and read by the debtor;

6 “(iv) copies of all payment advices or
7 other evidence of payment, if any, received
8 by the debtor from any employer of the
9 debtor in the period 60 days before the fil-
10 ing of the petition;

11 “(v) a statement of the amount of pro-
12 jected monthly net income, itemized to show
13 how the amount is calculated; and

14 “(vi) a statement disclosing any rea-
15 sonably anticipated increase in income or
16 expenditures over the 12-month period fol-
17 lowing the date of filing”; and

18 (2) by adding at the end the following:

19 “(e)(1) At any time, a creditor, in the case of an indi-
20 vidual under chapter 7 or 13, may file with the court notice
21 that the creditor requests the petition, schedules, and a
22 statement of affairs filed by the debtor in the case and the
23 court shall make those documents available to the creditor
24 who request those documents.

1 “(2)(A) *At any time, a creditor in a case under chap-*
2 *ter 13 may file with the court notice that the creditor re-*
3 *quests the plan filed by the debtor in the case.*

4 “(B) *The court shall make such plan available to the*
5 *creditor who request such plan—*

6 *“(i) at a reasonable cost; and*

7 *“(ii) not later than 5 days after such request.*

8 “(f) *An individual debtor in a case under chapter 7,*
9 *11, or 13 shall file with the court at the request of any*
10 *party in interest—*

11 *“(1) at the time filed with the taxing authority,*
12 *all tax returns required under applicable law, includ-*
13 *ing any schedules or attachments, with respect to the*
14 *period from the commencement of the case until such*
15 *time as the case is closed;*

16 *“(2) at the time filed with the taxing authority,*
17 *all tax returns required under applicable law, includ-*
18 *ing any schedules or attachments, that were not filed*
19 *with the taxing authority when the schedules under*
20 *subsection (a)(1) were filed with respect to the period*
21 *that is 3 years before the order of relief;*

22 *“(3) any amendments to any of the tax returns,*
23 *including schedules or attachments, described in para-*
24 *graph (1) or (2); and*

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

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

10 “(B) thereafter, on or before the date that is
11 45 days before each anniversary of the confirma-
12 tion of the plan until the case is closed.

13 “(g)(1) A statement referred to in subsection (f)(4)
14 shall disclose—

15 “(A) the amount and sources of income of the
16 debtor;

17 “(B) the identity of any person responsible with
18 the debtor for the support of any dependent of the
19 debtor; and

20 “(C) the identity of any person who contributed,
21 and the amount contributed, to the household in
22 which the debtor resides.

23 “(2) The tax returns, amendments, and statement of
24 income and expenditures described in paragraph (1) shall
25 be available to the United States trustee, any bankruptcy

1 administrator, any trustee, and any party in interest for
2 inspection and copying, subject to the requirements of sub-
3 section (h).

4 “(h)(1) Not later than 30 days after the date of enact-
5 ment of the Bankruptcy Reform Act of 2000, the Director
6 of the Administrative Office of the United States Courts
7 shall establish procedures for safeguarding the confiden-
8 tiality of any tax information required to be provided
9 under this section.

10 “(2) The procedures under paragraph (1) shall include
11 restrictions on creditor access to tax information that is re-
12 quired to be provided under this section.

13 “(3) Not later than 1 year after the date of enactment
14 of the Bankruptcy Reform Act of 2000, the Director of the
15 Administrative Office of the United States Courts shall pre-
16 pare and submit to Congress a report that—

17 “(A) assesses the effectiveness of the procedures
18 under paragraph (1); and

19 “(B) if appropriate, includes proposed legisla-
20 tion to—

21 “(i) further protect the confidentiality of tax
22 information; and

23 “(ii) provide penalties for the improper use
24 by any person of the tax information required to
25 be provided under this section.

1 “(i) If requested by the United States trustee or a
2 trustee serving in the case, the debtor shall provide—

3 “(1) a document that establishes the identity of
4 the debtor, including a driver’s license, passport, or
5 other document that contains a photograph of the
6 debtor; and

7 “(2) such other personal identifying information
8 relating to the debtor that establishes the identity of
9 the debtor.”.

10 **SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHED-**
11 **ULES OR PROVIDE REQUIRED INFORMATION.**

12 Section 521 of title 11, United States Code, as amend-
13 ed by section 315 of this Act, is amended by adding at the
14 end the following:

15 “(j)(1) Notwithstanding section 707(a), and subject to
16 paragraph (2), if an individual debtor in a voluntary case
17 under chapter 7 or 13 fails to file all of the information
18 required under subsection (a)(1) within 45 days after the
19 filing of the petition commencing the case, the case shall
20 be automatically dismissed effective on the 46th day after
21 the filing of the petition.

22 “(2) With respect to a case described in paragraph (1),
23 any party in interest may request the court to enter an
24 order dismissing the case. If requested, the court shall enter

1 *an order of dismissal not later than 5 days after such re-*
2 *quest.*

3 “(3) *Upon request of the debtor made within 45 days*
4 *after the filing of the petition commencing a case described*
5 *in paragraph (1), the court may allow the debtor an addi-*
6 *tional period of not to exceed 45 days to file the information*
7 *required under subsection (a)(1) if the court finds justifica-*
8 *tion for extending the period for the filing.”*

9 **SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON**
10 **CONFIRMATION OF THE PLAN.**

11 (a) *HEARING.*—Section 1324 of title 11, United States
12 *Code, is amended—*

13 (1) *by striking “After” and inserting the fol-*
14 *lowing:*

15 “(a) *Except as provided in subsection (b) and after*”;
16 *and*

17 (2) *by adding at the end the following:*

18 “(b) *The hearing on confirmation of the plan may be*
19 *held not later than 45 days after the meeting of creditors*
20 *under section 341(a).”*

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

23 **“§ 1321. Filing of plan**

24 “*Not later than 90 days after the order for relief under*
25 *this chapter, the debtor shall file a plan, except that the*

1 *court may extend such period if the need for an extension*
2 *is attributable to circumstances for which the debtor should*
3 *not justly be held accountable.”.*

4 **SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
5 **IN CERTAIN CASES.**

6 *Section 1322(d) of title 11, United States Code, is*
7 *amended to read as follows:*

8 *“(d)(1) Except as provided in paragraph (2), the plan*
9 *may not provide for payments over a period that is longer*
10 *than 3 years.*

11 *“(2) The plan may provide for payments over a period*
12 *that is longer than 3 years if—*

13 *“(A) the plan is for a case that was converted to*
14 *a case under this chapter from a case under chapter*
15 *7, or the plan is for a debtor who has been dismissed*
16 *from chapter 7 by reason of section 707(b), in which*
17 *case the plan shall provide for payments over a pe-*
18 *riod of 5 years; or*

19 *“(B) the plan is for a case that is not described*
20 *in subparagraph (A), and the court, for cause, ap-*
21 *proves a period longer than 3 years, but not to exceed*
22 *5 years.”.*

1 **SEC. 319. SENSE OF THE CONGRESS REGARDING EXPAN-**
2 **SION OF RULE 9011 OF THE FEDERAL RULES**
3 **OF BANKRUPTCY PROCEDURE.**

4 *It is the sense of Congress that Rule 9011 of the Federal*
5 *Rules of Bankruptcy Procedure (11 U.S.C. App.) should be*
6 *modified to include a requirement that all documents (in-*
7 *cluding schedules), signed and unsigned, submitted to the*
8 *court or to a trustee by debtors who represent themselves*
9 *and debtors who are represented by an attorney be sub-*
10 *mitted only after the debtor or the debtor's attorney has*
11 *made reasonable inquiry to verify that the information con-*
12 *tained in such documents is—*

13 *(1) well grounded in fact; and*

14 *(2) warranted by existing law or a good-faith ar-*
15 *gument for the extension, modification, or reversal of*
16 *existing law.*

17 **SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
18 **CASES.**

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

21 *(1) by inserting “(1)” after “(e)”; and*

22 *(2) by adding at the end the following:*

23 *“(2) Notwithstanding paragraph (1), in the case of an*
24 *individual filing under chapter 7, 11, or 13, the stay under*
25 *subsection (a) shall terminate on the date that is 60 days*

1 *after a request is made by a party in interest under sub-*
2 *section (d), unless—*

3 “(A) *a final decision is rendered by the court*
4 *during the 60-day period beginning on the date of the*
5 *request; or*

6 “(B) *that 60-day period is extended—*

7 “(i) *by agreement of all parties in interest;*
8 *or*

9 “(ii) *by the court for such specific period of*
10 *time as the court finds is required for good*
11 *cause, as described in findings made by the*
12 *court.”.*

13 **SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

14 (a) *PROPERTY OF THE ESTATE.—*

15 (1) *IN GENERAL.—Subchapter I of chapter 11 of*
16 *title 11, United States Code, is amended by adding*
17 *at the end the following:*

18 **“§ 1115. Property of the estate**

19 *“In a case concerning an individual, property of the*
20 *estate includes, in addition to the property specified in sec-*
21 *tion 541—*

22 “(1) *all property of the kind specified in section*
23 *541 that the debtor acquires after the commencement*
24 *of the case but before the case is closed, dismissed, or*

1 *converted to a case under chapter 7, 12, or 13, which-*
2 *ever occurs first; and*

3 “(2) *earnings from services performed by the*
4 *debtor after the commencement of the case but before*
5 *the case is closed, dismissed, or converted to a case*
6 *under chapter 7, 12, or 13, whichever occurs first.”.*

7 (2) *CLERICAL AMENDMENT.—The table of sec-*
8 *tions for chapter 11 of title 11, United States Code,*
9 *is amended by adding at the end of the matter relat-*
10 *ing to subchapter I the following:*

 “1115. *Property of the estate.*”.

11 (b) *CONTENTS OF PLAN.—Section 1123(a) of title 11,*
12 *United States Code, is amended—*

13 (1) *in paragraph (6), by striking “and” at the*
14 *end;*

15 (2) *in paragraph (7), by striking the period and*
16 *inserting “; and”; and*

17 (3) *by adding at the end the following:*

18 “(8) *in a case concerning an individual, provide*
19 *for the payment to creditors through the plan of all*
20 *or such portion of earnings from personal services*
21 *performed by the debtor after the commencement of*
22 *the case or other future income of the debtor as is nec-*
23 *essary for the execution of the plan.”.*

24 (c) *CONFIRMATION OF PLAN.—*

1 (1) *REQUIREMENTS RELATING TO VALUE OF*
2 *PROPERTY.*—Section 1129(a) of title 11, United
3 *States Code, is amended by adding at the end the fol-*
4 *lowing:*

5 “(14) *In a case concerning an individual in*
6 *which the holder of an allowed unsecured claim ob-*
7 *jects to the confirmation of the plan—*

8 “(A) *the value of the property to be distrib-*
9 *uted under the plan on account of such claim is,*
10 *as of the effective date of the plan, not less than*
11 *the amount of such claim; or*

12 “(B) *the value of the property to be distrib-*
13 *uted under the plan is not less than the debtor’s*
14 *projected disposable income (as that term is de-*
15 *defined in section 1325(b)(2)) to be received during*
16 *the 3-year period beginning on the date that the*
17 *first payment is due under the plan, or during*
18 *the term of the plan, whichever is longer.”.*

19 (2) *REQUIREMENT RELATING TO INTERESTS IN*
20 *PROPERTY.*—Section 1129(b)(2)(B)(ii) of title 11,
21 *United States Code, is amended by inserting before*
22 *the period at the end the following: “, except that in*
23 *a case concerning an individual, the debtor may re-*
24 *tain property included in the estate under section*

1 1115, subject to the requirements of subsection
2 (a)(14)”.

3 (d) *EFFECT OF CONFIRMATION*—Section 1141(d) of
4 title 11, United States Code, is amended—

5 (1) in paragraph (2), by striking “The confirma-
6 tion of a plan does not discharge an individual debt-
7 or” and inserting “A discharge under this chapter
8 does not discharge a debtor”; and

9 (2) by adding at the end the following:

10 “(5) In a case concerning an individual—

11 “(A) except as otherwise ordered for cause shown,
12 the discharge is not effective until completion of all
13 payment under the plan; and

14 “(B) at any time after the confirmation of the
15 plan and after notice and a hearing, the court may
16 grant a discharge to a debtor that has not completed
17 payments under the plan only if—

18 “(i) for each allowed unsecured claim, the
19 value as of the effective date of the plan, of prop-
20 erty actually distributed under the plan on ac-
21 count of that claim is not less than the amount
22 that would have been paid on such claim if the
23 estate of the debtor had been liquidated under
24 chapter 7 of this title on such date; and

1 “(i) modification of the plan under 1127 of
2 this title is not practicable.”.

3 (e) *MODIFICATION OF PLAN.*—Section 1127 of title 11,
4 *United States Code*, is amended by adding at the end the
5 *following*:

6 “(e) *In a case concerning an individual, the plan may*
7 *be modified at any time after confirmation of the plan but*
8 *before the completion of payments under the plan, whether*
9 *or not the plan has been substantially consummated, upon*
10 *request of the debtor, the trustee, the United States trustee,*
11 *or the holder of an allowed unsecured claim, to—*

12 “(1) *increase or reduce the amount of payments*
13 *on claims of a particular class provided for by the*
14 *plan;*

15 “(2) *extend or reduce the time period for such*
16 *payments; or*

17 “(3) *alter the amount of the distribution to a*
18 *creditor whose claim is provided for by the plan to*
19 *the extent necessary to take account of any payment*
20 *of such claim made other than under the plan.*

21 “(f)(1) *Sections 1121 through 1128 of this title and*
22 *the requirements of section 1129 of this title apply to any*
23 *modification under subsection (a).*

24 “(2) *The plan, as modified, shall become the plan only*
25 *after there has been disclosure under section 1125, as the*

1 *court may direct, notice and a hearing, and such modifica-*
2 *tion is approved.”.*

3 **SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICI-**
4 **PANT CONTRIBUTIONS AND OTHER PROP-**
5 **ERTY FROM THE ESTATE.**

6 *(a) IN GENERAL.—Section 541(b) of title 11, United*
7 *States Code, as amended by section 903 of this Act, is*
8 *amended—*

9 *(1) by striking “or” at the end of paragraph (5);*

10 *(2) by redesignating paragraph (6) as para-*
11 *graph (7); and*

12 *(3) by inserting after paragraph (5) the fol-*
13 *lowing:*

14 *“(6) any amount—*

15 *“(A) withheld by an employer from the*
16 *wages of employees for payment as contributions*
17 *to—*

18 *“(i) an employee benefit plan subject to*
19 *title I of the Employee Retirement Income*
20 *Security Act of 1974 (29 U.S.C. 1001 et*
21 *seq.); or*

22 *“(ii) a health insurance plan regulated*
23 *by State law whether or not subject to such*
24 *title; or*

1 “(B) received by the employer from employ-
2 ees for payment as contributions to—

3 “(i) an employee benefit plan subject to
4 title I of the Employee Retirement Income
5 Security Act of 1974 (29 U.S.C. 1001 et
6 seq.); or

7 “(ii) a health insurance plan regulated
8 by State law whether or not subject to such
9 title;”.

10 (b) *APPLICATION OF AMENDMENT.*—The amendment
11 made by this section shall not apply to cases commenced
12 under title 11, United States Code, before the expiration
13 of the 180-day period beginning on the date of the enact-
14 ment of this Act.

15 **SEC. 323. CLARIFICATION OF POSTPETITION WAGES AND**
16 **BENEFITS.**

17 Section 503(b)(1)(A) of title 11, United States Code,
18 is amended to read as follows:

19 “(A) the actual, necessary costs and expenses of
20 preserving the estate, including wages, salaries, or
21 commissions for services rendered after the commence-
22 ment of the case, and wages and benefits awarded as
23 back pay attributable to any period of time after com-
24 mencement of the case as a result of the debtor’s viola-
25 tion of Federal or State law, without regard to when

1 *the original unlawful act occurred or to whether any*
2 *services were rendered;”.*

3 **SEC. 324. LIMITATION.**

4 (a) *EXEMPTIONS.*—Section 522 of title 11, United
5 States Code, as amended by sections 224 and 307 of this
6 Act, is amended—

7 (1) *in subsection (b)(3)(A), by inserting “subject*
8 *to subsection (n),” before “any property”; and*

9 (2) *by adding at the end the following:*

10 “(n)(1) *Except as provided in paragraph (2), as a re-*
11 *sult of electing under subsection (b)(3)(A) to exempt prop-*
12 *erty under State or local law, a debtor may not exempt*
13 *any amount of interest that exceeds in the aggregate*
14 *\$100,000 in value in—*

15 “(A) *real or personal property that the debtor or*
16 *a dependent of the debtor uses as a residence;*

17 “(B) *a cooperative that owns property that the*
18 *debtor or a dependent of the debtor uses as a resi-*
19 *dence; or*

20 “(C) *a burial plot for the debtor or a dependent*
21 *of the debtor.*

22 “(2) *The limitation under paragraph (1) shall not*
23 *apply to an exemption claimed under subsection (b)(3)(A)*
24 *by a family farmer for the principal residence of that farm-*
25 *er.”.*

1 (b) *ADJUSTMENT OF DOLLAR AMOUNTS.*—Section
2 104(b) of title 11, United States Code, is amended—

3 (1) in paragraph (1), by striking “522(d),” and
4 inserting “522 (d) or (n),”; and

5 (2) in paragraph (3), by striking “522(d),” and
6 inserting “522 (d) or (n),”.

7 **SEC. 325. EXCLUSIVE JURISDICTION IN MATTERS INVOLV-**
8 **ING BANKRUPTCY PROFESSIONALS.**

9 Section 1334 of title 28, United States Code, is
10 amended—

11 (1) in subsection (b) by striking “Notwith-

12 standing” and inserting “Except as provided in sub-

13 section (e)(2), and notwithstanding”; and

14 (2) amending subsection (e) to read as follows:

15 “(e) The district court in which a case under title 11
16 is commenced or is pending shall have exclusive
17 jurisdiction—

18 “(1) of all the property, wherever located, of the
19 debtor as of the commencement of such case, and of
20 property of the estate; and

21 “(2) over all claims or causes of action that in-

22 volve construction of section 327 of title 11, United

23 States Code, or rules relating to disclosure require-

24 ments under section 327.”.

1 **SEC. 326. UNITED STATES TRUSTEE PROGRAM FILING FEE**
2 **INCREASE.**

3 (a) *ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11,*
4 *UNITED STATES CODE.*—Section 1930(a) of title 28,
5 *United States Code, is amended by striking paragraph (1)*
6 *and inserting the following:*

7 “(1) *For a case commenced—*

8 “(A) *under chapter 7 of title 11, \$160; or*

9 “(B) *under chapter 13 of title 11, \$150.”*

10 (b) *UNITED STATES TRUSTEE SYSTEM FUND.*—Sec-
11 *tion 589a(b) of title 28, United States Code, is amended—*

12 (1) *by striking paragraph (1) and inserting the*
13 *following:*

14 “(1)(A) *40.63 percent of the fees collected under*
15 *section 1930(a)(1)(A) of this title in cases commenced*
16 *under chapter 7 of title 11; and*

17 “(B) *70.00 percent of the fees collected under sec-*
18 *tion 1930(a)(1)(B) of this title in cases commenced*
19 *under chapter 13 of title 11;”;*

20 (2) *in paragraph (2) by striking “one-half” and*
21 *inserting “three-fourths”; and*

22 (3) *in paragraph (4) by striking “one-half” and*
23 *inserting “100 percent”.*

24 (c) *COLLECTION AND DEPOSIT OF MISCELLANEOUS*
25 *BANKRUPTCY FEES.*—Section 406(b) of the *Judiciary Ap-*
26 *propriations Act, 1990 (28 U.S.C. 1931 note) is amended*

1 *by striking “pursuant to 28 U.S.C. section 1930(b) and*
2 *30.76 per centum of the fees hereafter collected under 28*
3 *U.S.C. section 1930(a)(1) and 25 percent of the fees here-*
4 *after collected under 28 U.S.C. section 1930(a)(3) shall be*
5 *deposited as offsetting receipts to the fund established under*
6 *28 U.S.C. section 1931” and inserting “under section*
7 *1930(b) of title 28, United States Code, and 31.25 percent*
8 *of the fees collected under section 1930(a)(1)(A) of that title,*
9 *30.00 percent of the fees collected under section*
10 *1930(a)(1)(B) of that title, and 25 percent of the fees col-*
11 *lected under section 1930(a)(3) of that title shall be depos-*
12 *ited as offsetting receipts to the fund established under sec-*
13 *tion 1931 of that title”.*

14 **SEC. 327. COMPENSATION OF TRUSTEES IN CERTAIN CASES**

15 **UNDER CHAPTER 7 OF TITLE 11, UNITED**
16 **STATES CODE.**

17 *Section 326 of title 11, United States Code, is amended*
18 *by adding at the end the following:*

19 *“(e) In a case that has been converted under section*
20 *706, or after a case has been converted or dismissed under*
21 *section 707 or the debtor has been denied a discharge under*
22 *section 727—*

23 *“(1) the court may allow reasonable compensa-*
24 *tion under section 330 for the trustee’s services ren-*
25 *dered, payable after the trustee renders services; and*

1 “(2) any allowance made by a court under para-
2 graph (1) shall not be subject to the limitations under
3 subsection (a).”.

4 **SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED**
5 **THROUGH THE COMMISSION OF VIOLENCE AT**
6 **CLINICS.**

7 Section 523(a) of title 11, United States Code, as
8 amended by section 224 of this Act, is amended—

9 (1) in paragraph (18), by striking “or” at the
10 end;

11 (2) in paragraph (19)(B), by striking the period
12 and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(20) that results from any judgment, order, con-
15 sent order, or decree entered in any Federal or State
16 court, or contained in any settlement agreement en-
17 tered into by the debtor, including any damages, fine,
18 penalty, citation, or attorney fee or cost owed by the
19 debtor, arising from—

20 “(A) an actual or potential action under
21 section 248 of title 18;

22 “(B) an actual or potential action under
23 any Federal, State, or local law, the purpose of
24 which is to protect—

1 “(i) access to a health care facility, in-
2 cluding a facility providing reproductive
3 health services, as defined in section 248(e)
4 of title 18 (referred to in this paragraph as
5 a ‘health care facility’); or

6 “(ii) the provision of health services,
7 including reproductive health services (re-
8 ferred to in this paragraph as ‘health serv-
9 ices’);

10 “(C) an actual or potential action alleging
11 the violation of any Federal, State, or local stat-
12 utory or common law, including chapter 96 of
13 title 18 and the Federal civil rights laws (includ-
14 ing sections 1977 through 1980 of the Revised
15 Statutes) that results from the debtor’s actual,
16 attempted, or alleged—

17 “(i) harassment of, intimidation of, in-
18 terference with, obstruction of, injury to,
19 threat to, or violence against any person—

20 “(I) because that person provides
21 or has provided health services;

22 “(II) because that person is or has
23 been obtaining health services; or

24 “(III) to deter that person, any
25 other person, or a class of persons from

1 *obtaining or providing health services;*

2 *or*

3 *“(ii) damage or destruction of property*

4 *of a health care facility; or*

5 *“(D) an actual or alleged violation of a*

6 *court order or injunction that protects access to*

7 *a health care facility or the provision of health*

8 *services.”.*

9 **TITLE IV—GENERAL AND SMALL**
10 **BUSINESS BANKRUPTCY PRO-**
11 **VISIONS**

12 **Subtitle A—General Business**
13 **Bankruptcy Provisions**

14 **SEC. 401. ROLLING STOCK EQUIPMENT.**

15 *(a) IN GENERAL.—Section 1168 of title 11, United*
16 *States Code, is amended to read as follows:*

17 **“§ 1168. Rolling stock equipment**

18 *“(a)(1) The right of a secured party with a security*

19 *interest in or of a lessor or conditional vendor of equipment*

20 *described in paragraph (2) to take possession of such equip-*

21 *ment in compliance with an equipment security agreement,*

22 *lease, or conditional sale contract, and to enforce any of*

23 *its other rights or remedies under such security agreement,*

24 *lease, or conditional sale contract, to sell, lease, or otherwise*

25 *retain or dispose of such equipment, is not limited or other-*

1 *wise affected by any other provision of this title or by any*
2 *power of the court, except that the right to take possession*
3 *and enforce those other rights and remedies shall be subject*
4 *to section 362, if—*

5 “(A) *before the date that is 60 days after the*
6 *date of commencement of a case under this chapter,*
7 *the trustee, subject to the court’s approval, agrees to*
8 *perform all obligations of the debtor under such secu-*
9 *rity agreement, lease, or conditional sale contract;*
10 *and*

11 “(B) *any default, other than a default of a kind*
12 *described in section 365(b)(2), under such security*
13 *agreement, lease, or conditional sale contract that—*

14 “(i) *occurs before the date of commencement*
15 *of the case and is an event of default therewith*
16 *is cured before the expiration of such 60-day pe-*
17 *riod;*

18 “(ii) *occurs or becomes an event of default*
19 *after the date of commencement of the case and*
20 *before the expiration of such 60-day period is*
21 *cured before the later of—*

22 “(I) *the date that is 30 days after the*
23 *date of the default or event of the default; or*

24 “(II) *the expiration of such 60-day pe-*
25 *riod; and*

1 “(iii) occurs on or after the expiration of
2 such 60-day period is cured in accordance with
3 the terms of such security agreement, lease, or
4 conditional sale contract, if cure is permitted
5 under that agreement, lease, or conditional sale
6 contract.

7 “(2) The equipment described in this paragraph—

8 “(A) is rolling stock equipment or accessories
9 used on rolling stock equipment, including super-
10 structures or racks, that is subject to a security inter-
11 est granted by, leased to, or conditionally sold to a
12 debtor; and

13 “(B) includes all records and documents relating
14 to such equipment that are required, under the terms
15 of the security agreement, lease, or conditional sale
16 contract, to be surrendered or returned by the debtor
17 in connection with the surrender or return of such
18 equipment.

19 “(3) Paragraph (1) applies to a secured party, lessor,
20 or conditional vendor acting in its own behalf or acting
21 as trustee or otherwise in behalf of another party.

22 “(b) The trustee and the secured party, lessor, or condi-
23 tional vendor whose right to take possession is protected
24 under subsection (a) may agree, subject to the court’s ap-

1 *proval, to extend the 60-day period specified in subsection*
2 *(a)(1).*

3 “(c)(1) *In any case under this chapter, the trustee shall*
4 *immediately surrender and return to a secured party, les-*
5 *sor, or conditional vendor, described in subsection (a)(1),*
6 *equipment described in subsection (a)(2), if at any time*
7 *after the date of commencement of the case under this chap-*
8 *ter such secured party, lessor, or conditional vendor is enti-*
9 *tled under subsection (a)(1) to take possession of such equip-*
10 *ment and makes a written demand for such possession of*
11 *the trustee.*

12 “(2) *At such time as the trustee is required under*
13 *paragraph (1) to surrender and return equipment described*
14 *in subsection (a)(2), any lease of such equipment, and any*
15 *security agreement or conditional sale contract relating to*
16 *such equipment, if such security agreement or conditional*
17 *sale contract is an executory contract, shall be deemed re-*
18 *jected.*

19 “(d) *With respect to equipment first placed in service*
20 *on or before October 22, 1994, for purposes of this section—*

21 “(1) *the term ‘lease’ includes any written agree-*
22 *ment with respect to which the lessor and the debtor,*
23 *as lessee, have expressed in the agreement or in a sub-*
24 *stantially contemporaneous writing that the agree-*

1 *ment is to be treated as a lease for Federal income*
2 *tax purposes; and*

3 *“(2) the term ‘security interest’ means a pur-*
4 *chase-money equipment security interest.*

5 *“(e) With respect to equipment first placed in service*
6 *after October 22, 1994, for purposes of this section, the term*
7 *‘rolling stock equipment’ includes rolling stock equipment*
8 *that is substantially rebuilt and accessories used on such*
9 *equipment.”.*

10 *(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section*
11 *1110 of title 11, United States Code, is amended to read*
12 *as follows:*

13 **“§ 1110. Aircraft equipment and vessels**

14 *“(a)(1) Except as provided in paragraph (2) and sub-*
15 *ject to subsection (b), the right of a secured party with a*
16 *security interest in equipment described in paragraph (3),*
17 *or of a lessor or conditional vendor of such equipment, to*
18 *take possession of such equipment in compliance with a se-*
19 *curity agreement, lease, or conditional sale contract, and*
20 *to enforce any of its other rights or remedies, under such*
21 *security agreement, lease, or conditional sale contract, to*
22 *sell, lease, or otherwise retain or dispose of such equipment,*
23 *is not limited or otherwise affected by any other provision*
24 *of this title or by any power of the court.*

1 “(2) *The right to take possession and to enforce the*
2 *other rights and remedies described in paragraph (1) shall*
3 *be subject to section 362 if—*

4 “(A) *before the date that is 60 days after the*
5 *date of the order for relief under this chapter, the*
6 *trustee, subject to the approval of the court, agrees to*
7 *perform all obligations of the debtor under such secu-*
8 *rity agreement, lease, or conditional sale contract;*
9 *and*

10 “(B) *any default, other than a default of a kind*
11 *specified in section 365(b)(2), under such security*
12 *agreement, lease, or conditional sale contract that*
13 *occurs—*

14 “(i) *before the date of the order is cured be-*
15 *fore the expiration of such 60-day period;*

16 “(ii) *after the date of the order and before*
17 *the expiration of such 60-day period is cured be-*
18 *fore the later of—*

19 “(I) *the date that is 30 days after the*
20 *date of the default; or*

21 “(II) *the expiration of such 60-day pe-*
22 *riod; and*

23 “(iii) *on or after the expiration of such 60-*
24 *day period is cured in compliance with the terms*
25 *of such security agreement, lease, or conditional*

1 *sale contract, if a cure is permitted under that*
2 *agreement, lease, or contract.*

3 “(3) *The equipment described in this paragraph—*

4 “(A) *is—*

5 “(i) *an aircraft, aircraft engine, propeller,*
6 *appliance, or spare part (as defined in section*
7 *40102 of title 49) that is subject to a security in-*
8 *terest granted by, leased to, or conditionally sold*
9 *to a debtor that, at the time such transaction is*
10 *entered into, holds an air carrier operating cer-*
11 *tificate issued under chapter 447 of title 49 for*
12 *aircraft capable of carrying 10 or more individ-*
13 *uals or 6,000 pounds or more of cargo; or*

14 “(ii) *a documented vessel (as defined in sec-*
15 *tion 30101(1) of title 46) that is subject to a se-*
16 *curity interest granted by, leased to, or condi-*
17 *tionally sold to a debtor that is a water carrier*
18 *that, at the time such transaction is entered into,*
19 *holds a certificate of public convenience and ne-*
20 *cessity or permit issued by the Department of*
21 *Transportation; and*

22 “(B) *includes all records and documents relating*
23 *to such equipment that are required, under the terms*
24 *of the security agreement, lease, or conditional sale*
25 *contract, to be surrendered or returned by the debtor*

1 *in connection with the surrender or return of such*
2 *equipment.*

3 *“(4) Paragraph (1) applies to a secured party, lessor,*
4 *or conditional vendor acting in its own behalf or acting*
5 *as trustee or otherwise in behalf of another party.*

6 *“(b) The trustee and the secured party, lessor, or condi-*
7 *tional vendor whose right to take possession is protected*
8 *under subsection (a) may agree, subject to the approval of*
9 *the court, to extend the 60-day period specified in subsection*
10 *(a)(1).*

11 *“(c)(1) In any case under this chapter, the trustee shall*
12 *immediately surrender and return to a secured party, les-*
13 *sor, or conditional vendor, described in subsection (a)(1),*
14 *equipment described in subsection (a)(3), if at any time*
15 *after the date of the order for relief under this chapter such*
16 *secured party, lessor, or conditional vendor is entitled under*
17 *subsection (a)(1) to take possession of such equipment and*
18 *makes a written demand for such possession to the trustee.*

19 *“(2) At such time as the trustee is required under*
20 *paragraph (1) to surrender and return equipment described*
21 *in subsection (a)(3), any lease of such equipment, and any*
22 *security agreement or conditional sale contract relating to*
23 *such equipment, if such security agreement or conditional*
24 *sale contract is an executory contract, shall be deemed re-*
25 *jected.*

1 “(d) *With respect to equipment first placed in service*
2 *on or before October 22, 1994, for purposes of this section—*

3 “(1) *the term ‘lease’ includes any written agree-*
4 *ment with respect to which the lessor and the debtor,*
5 *as lessee, have expressed in the agreement or in a sub-*
6 *stantially contemporaneous writing that the agree-*
7 *ment is to be treated as a lease for Federal income*
8 *tax purposes; and*

9 “(2) *the term ‘security interest’ means a pur-*
10 *chase-money equipment security interest.”.*

11 **SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.**

12 (a) *DEFINITION.—Section 101 of title 11, United*
13 *States Code, as amended by section 306(c) of this Act, is*
14 *amended by inserting after paragraph (48) the following:*

15 “(48A) *‘securities self regulatory organization’*
16 *means either a securities association registered with*
17 *the Securities and Exchange Commission under sec-*
18 *tion 15A of the Securities Exchange Act of 1934 (15*
19 *U.S.C. 78o–3) or a national securities exchange reg-*
20 *istered with the Securities and Exchange Commission*
21 *under section 6 of the Securities Exchange Act of*
22 *1934 (15 U.S.C. 78f);”.*

23 (b) *AUTOMATIC STAY.—Section 362(b) of title 11,*
24 *United States Code, as amended by section 311 of this Act,*
25 *is amended—*

1 (1) *in paragraph (24), by striking “or” at the*
2 *end;*

3 (2) *in paragraph (25), by striking the period at*
4 *the end and inserting “; or”; and*

5 (3) *by inserting after paragraph (25) the fol-*
6 *lowing:*

7 “(26) *under subsection (a), of—*

8 “(A) *the commencement or continuation of*
9 *an investigation or action by a securities self*
10 *regulatory organization to enforce such organiza-*
11 *tion’s regulatory power;*

12 “(B) *the enforcement of an order or deci-*
13 *sion, other than for monetary sanctions, obtained*
14 *in an action by the securities self regulatory or-*
15 *ganization to enforce such organization’s regu-*
16 *latory power; or*

17 “(C) *any act taken by the securities self reg-*
18 *ulatory organization to delist, delete, or refuse to*
19 *permit quotation of any stock that does not meet*
20 *applicable regulatory requirements.”.*

21 **SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY**

22 **HOLDERS.**

23 *Section 341 of title 11, United States Code, is amended*
24 *by adding at the end the following:*

1 “(e) Notwithstanding subsections (a) and (b), the
2 court, on the request of a party in interest and after notice
3 and a hearing, for cause may order that the United States
4 trustee not convene a meeting of creditors or equity security
5 holders if the debtor has filed a plan as to which the debtor
6 solicited acceptances prior to the commencement of the
7 case.”.

8 **SEC. 404. PROTECTION OF REFINANCE OF SECURITY INTER-**
9 **EST.**

10 Subparagraphs (A), (B), and (C) of section 547(e)(2)
11 of title 11, United States Code, are each amended by strik-
12 ing “10” each place it appears and inserting “30”.

13 **SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED**
14 **LEASES.**

15 Section 365(d)(4) of title 11, United States Code, is
16 amended to read as follows:

17 “(4)(A) Subject to subparagraph (B), in any case
18 under any chapter of this title, an unexpired lease of non-
19 residential real property under which the debtor is the lessee
20 shall be deemed rejected and the trustee shall immediately
21 surrender that nonresidential real property to the lessor if
22 the trustee does not assume or reject the unexpired lease by
23 the earlier of—

24 “(i) the date that is 120 days after the date of
25 the order for relief; or

1 “(ii) the date of the entry of an order confirming
2 a plan.

3 “(B) The court may extend the period determined
4 under subparagraph (A) only upon a motion of the lessor.”.

5 **SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS**
6 **COMMITTEES.**

7 (a) *APPOINTMENT.*—Section 1102(a)(2) of title 11,
8 *United States Code*, is amended by inserting before the first
9 sentence the following: “On its own motion or on request
10 of a party in interest, and after notice and hearing, the
11 court may order a change in the membership of a committee
12 appointed under this subsection, if the court determines that
13 the change is necessary to ensure adequate representation
14 of creditors or equity security holders. The court may in-
15 crease the number of members of a committee to include
16 a creditor that is a small business concern (as described
17 in section 3(a)(1) of the *Small Business Act* (15 U.S.C.
18 632(a)(1))), if the court determines that the creditor holds
19 claims (of the kind represented by the committee) the aggre-
20 gate amount of which, in comparison to the annual gross
21 revenue of that creditor, is disproportionately large.”.

22 (b) *INFORMATION.*—Section 1102(b) of title 11, *United*
23 *States Code*, is amended by adding at the end the following:

24 “(3) A committee appointed under subsection (a)
25 shall—

1 “(A) provide access to information for creditors
2 who—

3 “(i) hold claims of the kind represented by
4 that committee; and

5 “(ii) are not appointed to the committee;

6 “(B) solicit and receive comments from the credi-
7 tors described in subparagraph (A); and

8 “(C) be subject to a court order that compels any
9 additional report or disclosure to be made to the
10 creditors described in subparagraph (A).”.

11 **SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11,**
12 **UNITED STATES CODE.**

13 Section 546 of title 11, United States Code, is
14 amended—

15 (1) by redesignating the second subsection des-
16 ignated as subsection (g) (as added by section 222(a)
17 of Public Law 103–394) as subsection (i); and

18 (2) by adding at the end the following:

19 “(j)(1) Notwithstanding section 545 (2) and (3), the
20 trustee may not avoid a warehouseman’s lien for storage,
21 transportation or other costs incidental to the storage and
22 handling of goods.

23 “(2) The prohibition under paragraph (1) shall be ap-
24 plied in a manner consistent with any applicable State

1 *statute that is similar to section 7–209 of the Uniform Com-*
 2 *mercial Code.”.*

3 **SEC. 408. LIMITATION.**

4 *Section 546(c)(1)(B) of title 11, United States Code,*
 5 *is amended by striking “20” and inserting “45”.*

6 **SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11,**

7 **UNITED STATES CODE.**

8 *Section 330(a)(3) of title 11, United States Code, is*
 9 *amended—*

10 *(1) by striking “(A) the; and inserting “(i) the”;*

11 *(2) by striking “(B)” and inserting “(ii)”;*

12 *(3) by striking “(C)” and inserting “(iii)”;*

13 *(4) by striking “(D)” and inserting “(iv)”;*

14 *(5) by striking “(E)” and inserting “(v)”;*

15 *(6) in subparagraph (A), by inserting “to an ex-*
 16 *aminer, trustee under chapter 11, or professional per-*
 17 *son” after “awarded”; and*

18 *(7) by adding at the end the following:*

19 *“(B) In determining the amount of reasonable com-*
 20 *ensation to be awarded a trustee, the court shall treat such*
 21 *compensation as a commission based on the results*
 22 *achieved.”.*

23 **SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.**

24 *Section 1125 of title 11, United States Code, is amend-*
 25 *ed by adding at the end the following:*

1 “(g) Notwithstanding subsection (b), an acceptance or
2 rejection of the plan may be solicited from a holder of a
3 claim or interest if such solicitation complies with applica-
4 ble nonbankruptcy law and if such holder was solicited be-
5 fore the commencement of the case in a manner complying
6 with applicable nonbankruptcy law.”.

7 **SEC. 411. PREFERENCES.**

8 Section 547(c) of title 11, United States Code, is
9 amended—

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

12 “(2) to the extent that such transfer was in pay-
13 ment of a debt incurred by the debtor in the ordinary
14 course of business or financial affairs of the debtor
15 and the transferee, and such transfer was—

16 “(A) made in the ordinary course of busi-
17 ness or financial affairs of the debtor and the
18 transferee; or

19 “(B) made according to ordinary business
20 terms;”;

21 (2) in paragraph (7) by striking “or” at the end;

22 (3) in paragraph (8) by striking the period at
23 the end and inserting “; or”; and

24 (4) by adding at the end the following:

1 “(9) if, in a case filed by a debtor whose debts
2 are not primarily consumer debts, the aggregate value
3 of all property that constitutes or is affected by such
4 transfer is less than \$5,000.”.

5 **SEC. 412. VENUE OF CERTAIN PROCEEDINGS.**

6 Section 1409(b) of title 28, United States Code, is
7 amended by inserting “, or a nonconsumer debt against a
8 noninsider of less than \$10,000,” after “\$5,000”.

9 **SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

10 Section 1121(d) of title 11, United States Code, is
11 amended—

12 (1) by striking “On” and inserting “(1) Subject
13 to paragraph (1), on”; and

14 (2) by adding at the end the following:

15 “(2)(A) The 120-day period specified in paragraph (1)
16 may not be extended beyond a date that is 18 months after
17 the date of the order for relief under this chapter.

18 “(B) The 180-day period specified in paragraph (1)
19 may not be extended beyond a date that is 20 months after
20 the date of the order for relief under this chapter.”.

21 **SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP INTER-**
22 **ESTS.**

23 Section 523(a)(16) of title 11, United States Code, is
24 amended—

1 (1) by striking “dwelling” the first place it ap-
2 pears;

3 (2) by striking “ownership or” and inserting
4 “ownership,”;

5 (3) by striking “housing” the first place it ap-
6 pears; and

7 (4) by striking “but only” and all that follows
8 through “but nothing in this paragraph” and insert-
9 ing “or a lot in a homeowners association, for as long
10 as the debtor or the trustee has a legal, equitable, or
11 possessory ownership interest in such unit, such cor-
12 poration, or such lot, and until such time as the debt-
13 or or trustee has surrendered any legal, equitable or
14 possessory interest in such unit, such corporation, or
15 such lot, but nothing in this paragraph”.

16 **SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING**
17 **OF CREDITORS.**

18 Section 341(c) of title 11, United States Code, is
19 amended by inserting after the first sentence the following:
20 “Notwithstanding any local court rule, provision of a State
21 constitution, any other Federal or State law that is not a
22 bankruptcy law, or other requirement that representation
23 at the meeting of creditors under subsection (a) be by an
24 attorney, a creditor holding a consumer debt or any rep-
25 resentative of the creditor (which may include an entity or

1 *an employee of an entity and may be a representative for*
2 *more than 1 creditor) shall be permitted to appear at and*
3 *participate in the meeting of creditors in a case under chap-*
4 *ter 7 or 13, either alone or in conjunction with an attorney*
5 *for the creditor. Nothing in this subsection shall be con-*
6 *strued to require any creditor to be represented by an attor-*
7 *ney at any meeting of creditors.”.*

8 **SEC. 416. DEFINITION OF DISINTERESTED PERSON.**

9 *Section 101(14) of title 11, United States Code, is*
10 *amended to read as follows:*

11 *“(14) ‘disinterested person’ means a person*
12 *that—*

13 *“(A) is not a creditor, an equity security*
14 *holder, or an insider;*

15 *“(B) is not and was not, within 2 years be-*
16 *fore the date of the filing of the petition, a direc-*
17 *tor, officer, or employee of the debtor; and*

18 *“(C) does not have an interest materially*
19 *adverse to the interest of the estate or of any*
20 *class of creditors or equity security holders, by*
21 *reason of any direct or indirect relationship to,*
22 *connection with, or interest in, the debtor, or for*
23 *any other reason;”.*

1 **SEC. 417. FACTORS FOR COMPENSATION OF PROFESSIONAL**
2 **PERSONS.**

3 *Section 330(a)(3)(A) of title 11, United States Code,*
4 *as amended by section 409 of this Act, is amended—*

5 *(1) in clause (i), by striking “and” at the end;*

6 *(2) by redesignating clause (v) as clause (vi);*

7 *and*

8 *(3) by inserting after clause (iv) the following:*

9 *“(v) with respect to a professional person, wheth-*
10 *er the person is board certified or otherwise has dem-*
11 *onstrated skill and experience in the bankruptcy*
12 *field;”.*

13 **SEC. 418. APPOINTMENT OF ELECTED TRUSTEE.**

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

16 *(1) by inserting “(1)” after “(b)”;* and

17 *(2) by adding at the end the following:*

18 *“(2)(A) If an eligible, disinterested trustee is elected*
19 *at a meeting of creditors under paragraph (1), the United*
20 *States trustee shall file a report certifying that election.*

21 *“(B) Upon the filing of a report under subparagraph*
22 *(A)—*

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

1 “(i) the service of any trustee appointed under
2 subsection (d) shall terminate.

3 “(C) In the case of any dispute arising out of an elec-
4 tion described in subparagraph (A), the court shall resolve
5 the dispute.”.

6 **SEC. 419. UTILITY SERVICE.**

7 Section 366 of title 11, United States Code, is
8 amended—

9 (1) in subsection (a), by striking “subsection (b)”
10 and inserting “subsections (b) and (c)”; and

11 (2) by adding at the end the following:

12 “(c)(1)(A) For purposes of this subsection, the term
13 ‘assurance of payment’ means—

14 “(i) a cash deposit;

15 “(ii) a letter of credit;

16 “(iii) a certificate of deposit;

17 “(iv) a surety bond;

18 “(v) a prepayment of utility consumption; or

19 “(vi) another form of security that is mutually
20 agreed on between the utility and the debtor or the
21 trustee.

22 “(B) For purposes of this subsection an administrative
23 expense priority shall not constitute an assurance of pay-
24 ment.

1 “(2) Subject to paragraphs (3) through (5), with re-
2 spect to a case filed under chapter 11, a utility referred
3 to in subsection (a) may alter, refuse, or discontinue utility
4 service, if during the 20-day period beginning on the date
5 of filing of the petition, the utility does not receive from
6 the debtor or the trustee adequate assurance of payment for
7 utility service that is satisfactory to the utility.

8 “(3)(A) On request of a party in interest and after
9 notice and a hearing, the court may order modification of
10 the amount of an assurance of payment under paragraph
11 (2).

12 “(B) In making a determination under this paragraph
13 whether an assurance of payment is adequate, the court
14 may not consider—

15 “(i) the absence of security before the date of fil-
16 ing of the petition;

17 “(ii) the payment by the debtor of charges for
18 utility service in a timely manner before the date of
19 filing of the petition; or

20 “(iii) the availability of an administrative ex-
21 pense priority.

22 “(4) Notwithstanding any other provision of law, with
23 respect to a case subject to this subsection, a utility may
24 recover or set off against a security deposit provided to the

1 *utility by the debtor before the date of filing of the petition*
2 *without notice or order of the court.”.*

3 **SEC. 420. BANKRUPTCY FEES.**

4 *Section 1930 of title 28, United States Code, is*
5 *amended—*

6 *(1) in subsection (a), by striking “Notwith-*
7 *standing section 1915 of this title, the parties” and*
8 *inserting “Subject to subsection (f), the parties”; and*

9 *(2) by adding at the end the following:*

10 *“(f)(1) The Judicial Conference of the United States*
11 *shall prescribe procedures for waiving fees under this sub-*
12 *section.*

13 *“(2) Under the procedures described in paragraph (1),*
14 *the district court or the bankruptcy court may waive a fil-*
15 *ing fee described in paragraph (3) for a case commenced*
16 *under chapter 7 of title 11 if the court determines that an*
17 *individual debtor whose income is less than 125 percent of*
18 *the income official poverty line (as defined by the Office*
19 *of Management and Budget, and revised annually in ac-*
20 *cordance with section 673(2) of the Omnibus Budget Rec-*
21 *onciliation Act of 1981) applicable to a family of the size*
22 *involved is unable to pay that fee in installments.*

23 *“(3) A filing fee referred to in paragraph (2) is—*

24 *“(A) a filing fee under subsection (a)(1); or*

1 “(B) any other fee prescribed by the Judicial
2 Conference of the United States under subsection (b)
3 that is payable to the clerk of the district court or the
4 clerk of the bankruptcy court upon the commencement
5 of a case under chapter 7 of title 11.

6 “(4) In addition to waiving a fee under paragraph
7 (2), the district court or the bankruptcy court may waive
8 any other fee prescribed under subsection (b) or (c) if the
9 court determines that the individual with an income at a
10 level described in paragraph (2) is unable to pay that fee
11 in installments.”.

12 **SEC. 421. MORE COMPLETE INFORMATION REGARDING AS-**
13 **SETS OF THE ESTATE.**

14 (a) *IN GENERAL.*—

15 (1) *DISCLOSURE.*—*The Advisory Committee on*
16 *Bankruptcy Rules of the Judicial Conference of the*
17 *United States, after consideration of the views of the*
18 *Director of the Executive Office for the United States*
19 *Trustees, shall propose for adoption amended Federal*
20 *Rules of Bankruptcy Procedure and Official Bank-*
21 *ruptcy Forms directing debtors under chapter 11 of*
22 *title 11, United States Code, to disclose the informa-*
23 *tion described in paragraph (2) by filing and serving*
24 *periodic financial and other reports designed to pro-*
25 *vide such information.*

1 (2) *INFORMATION.*—*The information referred to*
2 *in paragraph (1) is the value, operations, and profit-*
3 *ability of any closely held corporation, partnership,*
4 *or of any other entity in which the debtor holds a sub-*
5 *stantial or controlling interest.*

6 (b) *PURPOSE.*—*The purpose of the rules and reports*
7 *under subsection (a) shall be to assist parties in interest*
8 *taking steps to ensure that the debtor’s interest in any enti-*
9 *ty referred to in subsection (a)(2) is used for the payment*
10 *of allowed claims against debtor.*

11 ***Subtitle B—Small Business***
12 ***Bankruptcy Provisions***

13 ***SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT***
14 ***AND PLAN.***

15 *Section 1125 of title 11, United States Code, is amend-*
16 *ed by striking subsection (f) and inserting the following:*

17 “(f) *Notwithstanding subsection (b), in a small busi-*
18 *ness case—*

19 “(1) *in determining whether a disclosure state-*
20 *ment provides adequate information, the court shall*
21 *consider the complexity of the case, the benefit of ad-*
22 *ditional information to creditors and other parties in*
23 *interest, and the cost of providing additional infor-*
24 *mation;*

1 “(2) the court may determine that the plan itself
2 provides adequate information and that a separate
3 disclosure statement is not necessary;

4 “(3) the court may approve a disclosure state-
5 ment submitted on standard forms approved by the
6 court or adopted under section 2075 of title 28; and

7 “(4)(A) the court may conditionally approve a
8 disclosure statement subject to final approval after
9 notice and a hearing;

10 “(B) acceptances and rejections of a plan may be
11 solicited based on a conditionally approved disclosure
12 statement if the debtor provides adequate information
13 to each holder of a claim or interest that is solicited,
14 but a conditionally approved disclosure statement
15 shall be mailed not later than 20 days before the date
16 of the hearing on confirmation of the plan; and

17 “(C) the hearing on the disclosure statement may
18 be combined with the hearing on confirmation of a
19 plan.”.

20 **SEC. 432. DEFINITIONS; EFFECT OF DISCHARGE.**

21 (a) *DEFINITIONS.*—Section 101 of title 11, United
22 States Code, as amended by section 402 of this Act, is
23 amended by striking paragraph (51C) and inserting the fol-
24 lowing:

1 “(51C) ‘small business case’ means a case filed
2 under chapter 11 of this title in which the debtor is
3 a small business debtor;

4 “(51D) ‘small business debtor’—

5 “(A) subject to subparagraph (B), means a
6 person (including any affiliate of such person
7 that is also a debtor under this title and exclud-
8 ing a person whose primary activity is the busi-
9 ness of owning and operating real property and
10 activities incidental thereto) that has aggregate
11 noncontingent, liquidated secured and unsecured
12 debts as of the date of the petition or the order
13 for relief in an amount not more than
14 \$3,000,000 (excluding debts owed to 1 or more
15 affiliates or insiders) for a case in which the
16 United States trustee has appointed under sec-
17 tion 1102(a)(1) a committee of unsecured credi-
18 tors that the court has determined is sufficiently
19 active and representative to provide effective
20 oversight of the debtor; and

21 “(B) does not include any member of a
22 group of affiliated debtors that has aggregate
23 noncontingent liquidated secured and unsecured
24 debts in an amount greater than \$4,000,000 (ex-

1 cluding debt owed to 1 or more affiliates or in-
2 siders);”.

3 (b) *CONFORMING AMENDMENT.*—Section 1102(a)(3) of
4 title 11, United States Code, is amended by inserting “debt-
5 or” after “small business”.

6 **SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND**
7 **PLAN.**

8 Within a reasonable period of time after the date of
9 the enactment of this Act, the Advisory Committee on Bank-
10 ruptcy Rules of the Judicial Conference of the United States
11 shall propose for adoption standard form disclosure state-
12 ments and plans of reorganization for small business debt-
13 ors (as defined in section 101 of title 11, United States
14 Code, as amended by this Act), designed to achieve a prac-
15 tical balance between—

16 (1) the reasonable needs of the courts, the United
17 States trustee, creditors, and other parties in interest
18 for reasonably complete information; and

19 (2) economy and simplicity for debtors.

20 **SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.**

21 (a) *REPORTING REQUIRED.*—

22 (1) *IN GENERAL.*—Chapter 3 of title 11, United
23 States Code, is amended by inserting after section 307
24 the following:

1 **“§ 308. Debtor reporting requirements**

2 “(1) For purposes of this section, the term ‘profit-
3 ability’ means, with respect to a debtor, the amount of
4 money that the debtor has earned or lost during current
5 and recent fiscal periods.

6 “(2) A small business debtor shall file periodic finan-
7 cial and other reports containing information including—

8 “(A) the debtor’s profitability;

9 “(B) reasonable approximations of the debtor’s
10 projected cash receipts and cash disbursements over a
11 reasonable period;

12 “(C) comparisons of actual cash receipts and
13 disbursements with projections in prior reports;

14 “(D)(i) whether the debtor is—

15 “(I) in compliance in all material respects
16 with postpetition requirements imposed by this
17 title and the Federal Rules of Bankruptcy Proce-
18 dure; and

19 “(II) timely filing tax returns and other re-
20 quired government filings and paying taxes and
21 other administrative claims when due; and

22 “(ii) if the debtor is not in compliance with the
23 requirements referred to in clause (i)(I) or filing tax
24 returns and other required government filings and
25 making the payments referred to in clause (i)(II),

1 *what the failures are and how, at what cost, and*
2 *when the debtor intends to remedy such failures; and*
3 *“(iii) such other matters as are in the best inter-*
4 *ests of the debtor and creditors, and in the public in-*
5 *terest in fair and efficient procedures under chapter*
6 *11 of this title.”.*

7 (2) *CLERICAL AMENDMENT.—The table of sec-*
8 *tions for chapter 3 of title 11, United States Code, is*
9 *amended by inserting after the item relating to sec-*
10 *tion 307 the following:*
 “308. Debtor reporting requirements.”.

11 (b) *EFFECTIVE DATE.—The amendments made by sub-*
12 *section (a) shall take effect 60 days after the date on which*
13 *rules are prescribed under section 2075 of title 28, United*
14 *States Code, to establish forms to be used to comply with*
15 *section 308 of title 11, United States Code, as added by*
16 *subsection (a).*

17 **SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR**
18 **SMALL BUSINESS CASES.**

19 (a) *PROPOSAL OF RULES AND FORMS.—The Advisory*
20 *Committee on Bankruptcy Rules of the Judicial Conference*
21 *of the United States shall propose for adoption amended*
22 *Federal Rules of Bankruptcy Procedure and Official Bank-*
23 *ruptcy Forms to be used by small business debtors to file*
24 *periodic financial and other reports containing informa-*
25 *tion, including information relating to—*

- 1 (1) *the debtor's profitability;*
2 (2) *the debtor's cash receipts and disbursements;*
3 *and*
4 (3) *whether the debtor is timely filing tax re-*
5 *turns and paying taxes and other administrative*
6 *claims when due.*

7 (b) *PURPOSE.—The rules and forms proposed under*
8 *subsection (a) shall be designed to achieve a practical bal-*
9 *ance among—*

10 (1) *the reasonable needs of the bankruptcy court,*
11 *the United States trustee, creditors, and other parties*
12 *in interest for reasonably complete information;*

13 (2) *the small business debtor's interest that re-*
14 *quired reports be easy and inexpensive to complete;*
15 *and*

16 (3) *the interest of all parties that the required re-*
17 *ports help the small business debtor to understand the*
18 *small business debtor's financial condition and plan*
19 *the small business debtor's future.*

20 **SEC. 436. DUTIES IN SMALL BUSINESS CASES.**

21 (a) *DUTIES IN CHAPTER 11 CASES.—Subchapter I of*
22 *title 11, United States Code, as amended by section 321*
23 *of this Act, is amended by adding at the end the following:*

1 **“§1116. Duties of trustee or debtor in possession in**
2 **small business cases**

3 *“In a small business case, a trustee or the debtor in*
4 *possession, in addition to the duties provided in this title*
5 *and as otherwise required by law, shall—*

6 *“(1) append to the voluntary petition or, in an*
7 *involuntary case, file within 7 days after the date of*
8 *the order for relief—*

9 *“(A) its most recent balance sheet, statement*
10 *of operations, cash-flow statement, Federal in-*
11 *come tax return; or*

12 *“(B) a statement made under penalty of*
13 *perjury that no balance sheet, statement of oper-*
14 *ations, or cash-flow statement has been prepared*
15 *and no Federal tax return has been filed;*

16 *“(2) attend, through its senior management per-*
17 *sonnel and counsel, meetings scheduled by the court or*
18 *the United States trustee, including initial debtor*
19 *interviews, scheduling conferences, and meetings of*
20 *creditors convened under section 341 unless the court*
21 *waives that requirement after notice and hearing,*
22 *upon a finding of extraordinary and compelling cir-*
23 *cumstances;*

24 *“(3) timely file all schedules and statements of*
25 *financial affairs, unless the court, after notice and a*
26 *hearing, grants an extension, which shall not extend*

1 *such time period to a date later than 30 days after*
2 *the date of the order for relief, absent extraordinary*
3 *and compelling circumstances;*

4 *“(4) file all postpetition financial and other re-*
5 *ports required by the Federal Rules of Bankruptcy*
6 *Procedure or by local rule of the district court;*

7 *“(5) subject to section 363(c)(2), maintain insur-*
8 *ance customary and appropriate to the industry;*

9 *“(6)(A) timely file tax returns and other re-*
10 *quired government filings; and*

11 *“(B) subject to section 363(c)(2), timely pay all*
12 *administrative expense tax claims, except those being*
13 *contested by appropriate proceedings being diligently*
14 *prosecuted; and*

15 *“(7) allow the United States trustee, or a des-*
16 *ignated representative of the United States trustee, to*
17 *inspect the debtor’s business premises, books, and*
18 *records at reasonable times, after reasonable prior*
19 *written notice, unless notice is waived by the debtor.”.*

20 *(b) CLERICAL AMENDMENT.—The table of sections for*
21 *chapter 11 of title 11, United States Code, is amended by*
22 *adding at the end of the matter relating to subchapter I*
23 *the following:*

“1116. Duties of trustee or debtor in possession in small business cases.”.

1 **SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.**

2 *Section 1121 of title 11, United States Code, is amend-*
3 *ed by striking subsection (e) and inserting the following:*

4 *“(e) In a small business case—*

5 *“(1) only the debtor may file a plan until after*
6 *180 days after the date of the order for relief, unless*
7 *that period is—*

8 *“(A) extended as provided by this sub-*
9 *section, after notice and hearing; or*

10 *“(B) the court, for cause, orders otherwise;*

11 *“(2) the plan, and any necessary disclosure*
12 *statement, shall be filed not later than 300 days after*
13 *the date of the order for relief; and*

14 *“(3) the time periods specified in paragraphs (1)*
15 *and (2), and the time fixed in section 1129(e), within*
16 *which the plan shall be confirmed, may be extended*
17 *only if—*

18 *“(A) the debtor, after providing notice to*
19 *parties in interest (including the United States*
20 *trustee), demonstrates by a preponderance of the*
21 *evidence that it is more likely than not that the*
22 *court will confirm a plan within a reasonable*
23 *period of time;*

24 *“(B) a new deadline is imposed at the time*
25 *the extension is granted; and*

1 “(C) the order extending time is signed be-
2 fore the existing deadline has expired.”.

3 **SEC. 438. PLAN CONFIRMATION DEADLINE.**

4 Section 1129 of title 11, United States Code, is amend-
5 ed by adding at the end the following:

6 “(e) In a small business case, the plan shall be con-
7 firmed not later than 175 days after the date of the order
8 for relief, unless such 175-day period is extended as pro-
9 vided in section 1121(e)(3).”.

10 **SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.**

11 Section 586(a) of title 28, United States Code, is
12 amended—

13 (1) in paragraph (3)—

14 (A) in subparagraph (G), by striking “and”
15 at the end;

16 (B) by redesignating subparagraph (H) as
17 subparagraph (I); and

18 (C) by inserting after subparagraph (G) the
19 following:

20 “(H) in small business cases (as defined in
21 section 101 of title 11), performing the addi-
22 tional duties specified in title 11 pertaining to
23 such cases;”;

24 (2) in paragraph (5), by striking “and” at the
25 end;

1 (3) in paragraph (6), by striking the period at
2 the end and inserting “; and”; and

3 (4) by inserting after paragraph (6) the fol-
4 lowing:

5 “(7) in each of such small business cases—

6 “(A) conduct an initial debtor interview as
7 soon as practicable after the entry of order for
8 relief but before the first meeting scheduled under
9 section 341(a) of title 11, at which time the
10 United States trustee shall—

11 “(i) begin to investigate the debtor’s vi-
12 ability;

13 “(ii) inquire about the debtor’s busi-
14 ness plan;

15 “(iii) explain the debtor’s obligations
16 to file monthly operating reports and other
17 required reports;

18 “(iv) attempt to develop an agreed
19 scheduling order; and

20 “(v) inform the debtor of other obliga-
21 tions;

22 “(B) if determined to be appropriate and
23 advisable, visit the appropriate business premises
24 of the debtor and ascertain the state of the debt-

1 *or's books and records and verify that the debtor*
2 *has filed its tax returns; and*

3 *“(C) review and monitor diligently the*
4 *debtor's activities, to identify as promptly as*
5 *possible whether the debtor will be unable to con-*
6 *firm a plan; and*

7 *“(8) in any case in which the United States*
8 *trustee finds material grounds for any relief under*
9 *section 1112 of title 11, the United States trustee shall*
10 *apply promptly after making that finding to the*
11 *court for relief.”.*

12 **SEC. 440. SCHEDULING CONFERENCES.**

13 *Section 105(d) of title 11, United States Code, is*
14 *amended—*

15 *(1) in the matter preceding paragraph (1), by*
16 *striking “, may”;*

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

19 *“(1) shall hold such status conferences as are*
20 *necessary to further the expeditious and economical*
21 *resolution of the case; and”;* and

22 *(3) in paragraph (2), by striking “unless incon-*
23 *sistent with another provision of this title or with ap-*
24 *licable Federal Rules of Bankruptcy Procedure,”.*

1 **SEC. 441. SERIAL FILER PROVISIONS.**

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

4 *(1) in subsection (j), as redesignated by section*
5 *305(1) of this Act—*

6 *(A) by striking “An” and inserting “(1)*
7 *Except as provided in paragraph (2), an”;* and

8 *(B) by adding at the end the following:*

9 *“(2) If such violation is based on an action taken by*
10 *an entity in the good faith belief that subsection (h) applies*
11 *to the debtor, the recovery under paragraph (1) against such*
12 *entity shall be limited to actual damages.”;* and

13 *(2) by inserting after subsection (j) the following:*

14 *“(k)(1) Except as provided in paragraph (2), the filing*
15 *of a petition under chapter 11 operates as a stay of the*
16 *acts described in subsection (a) only in an involuntary case*
17 *involving no collusion by the debtor with creditors and in*
18 *which the debtor—*

19 *“(A) is a debtor in a small business case pending*
20 *at the time the petition is filed;*

21 *“(B) was a debtor in a small business case that*
22 *was dismissed for any reason by an order that became*
23 *final in the 2-year period ending on the date of the*
24 *order for relief entered with respect to the petition;*

25 *“(C) was a debtor in a small business case in*
26 *which a plan was confirmed in the 2-year period end-*

1 *ing on the date of the order for relief entered with re-*
2 *spect to the petition; or*

3 *“(D) is an entity that has succeeded to substan-*
4 *tially all of the assets or business of a small business*
5 *debtor described in subparagraph (A), (B), or (C).*

6 *“(2) Paragraph (1) does not apply to the filing of a*
7 *petition if the debtor proves by a preponderance of the evi-*
8 *dence that—*

9 *“(A) the filing of that petition resulted from cir-*
10 *cumstances beyond the control of the debtor not fore-*
11 *seeable at the time the case then pending was filed;*
12 *and*

13 *“(B) it is more likely than not that the court*
14 *will confirm a feasible plan, but not a liquidating*
15 *plan, within a reasonable period of time.”.*

16 **SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
17 **VERSION AND APPOINTMENT OF TRUSTEE.**

18 *(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVER-*
19 *SION.—Section 1112 of title 11, United States Code, is*
20 *amended by striking subsection (b) and inserting the fol-*
21 *lowing:*

22 *“(b)(1) Except as provided in paragraph (2), in sub-*
23 *section (c), and section 1104(a)(3), on request of a party*
24 *in interest, and after notice and a hearing, the court shall*
25 *convert a case under this chapter to a case under chapter*

1 7 or dismiss a case under this chapter, whichever is in the
2 best interest of creditors and the estate, if the movant estab-
3 lishes cause.

4 “(2) The relief provided in paragraph (1) shall not be
5 granted if the debtor or another party in interest objects
6 and establishes by a preponderance of the evidence that—

7 “(A) a plan with a reasonable possibility of
8 being confirmed will be filed within a reasonable pe-
9 riod of time; and

10 “(B) if the grounds include an act or omission
11 of the debtor—

12 “(i) for which there exists a reasonable jus-
13 tification for the act or omission; and

14 “(ii) which will be cured within a reason-
15 able period of time fixed by the court.

16 “(3) The court shall commence the hearing on any mo-
17 tion under this subsection not later than 30 days after filing
18 of the motion, and shall decide the motion within 15 days
19 after commencement of the hearing, unless the movant ex-
20 pressly consents to a continuance for a specific period of
21 time or compelling circumstances prevent the court from
22 meeting the time limits established by this paragraph.

23 “(4) For purposes of this subsection, cause includes—

24 “(A) substantial or continuing loss to or diminution
25 of the estate;

1 “(B) gross mismanagement of the estate;

2 “(C) failure to maintain appropriate insurance
3 that poses a risk to the estate or to the public;

4 “(D) unauthorized use of cash collateral harmful
5 to 1 or more creditors;

6 “(E) failure to comply with an order of the
7 court;

8 “(F) repeated failure timely to satisfy any filing
9 or reporting requirement established by this title or
10 by any rule applicable to a case under this chapter;

11 “(G) failure to attend the meeting of creditors
12 convened under section 341(a) or an examination or-
13 dered under Rule 2004 of the Federal Rules of Bank-
14 ruptcy Procedure;

15 “(H) failure timely to provide information or at-
16 tend meetings reasonably requested by the United
17 States trustee;

18 “(I) failure timely to pay taxes due after the
19 date of the order for relief or to file tax returns due
20 after the order for relief;

21 “(J) failure to file a disclosure statement, or to
22 file or confirm a plan, within the time fixed by this
23 title or by order of the court;

24 “(K) failure to pay any fees or charges required
25 under chapter 123 of title 28;

1 “(L) revocation of an order of confirmation
2 under section 1144;

3 “(M) inability to effectuate substantial con-
4 summation of a confirmed plan;

5 “(N) material default by the debtor with respect
6 to a confirmed plan;

7 “(O) termination of a confirmed plan by reason
8 of the occurrence of a condition specified in the plan;
9 and

10 “(P) failure of the debtor to pay any domestic
11 support obligation that first becomes payable after the
12 date on which the petition is filed.

13 “(5) The court shall commence the hearing on any mo-
14 tion under this subsection not later than 30 days after filing
15 of the motion, and shall decide the motion within 15 days
16 after commencement of the hearing, unless the movant ex-
17 pressly consents to a continuance for a specific period of
18 time or compelling circumstances prevent the court from
19 meeting the time limits established by this paragraph.”.

20 (b) *ADDITIONAL GROUNDS FOR APPOINTMENT OF*
21 *TRUSTEE.*—Section 1104(a) of title 11, United States Code,
22 is amended—

23 (1) in paragraph (1), by striking “or” at the
24 end;

1 (2) *in paragraph (2), by striking the period at*
2 *the end and inserting “; or”; and*

3 (3) *by adding at the end the following:*

4 “(3) *if grounds exist to convert or dismiss the*
5 *case under section 1112, but the court determines that*
6 *the appointment of a trustee or an examiner is in the*
7 *best interests of creditors and the estate.”.*

8 **SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED**
9 **STATES CODE, WITH RESPECT TO SMALL**
10 **BUSINESSES.**

11 *Not later than 2 years after the date of the enactment*
12 *of this Act, the Administrator of the Small Business Admin-*
13 *istration, in consultation with the Attorney General of the*
14 *United States, the Director of the Administrative Office of*
15 *United States Trustees, and the Director of the Administra-*
16 *tive Office of the United States Courts, shall—*

17 (1) *conduct a study to determine—*

18 (A) *the internal and external factors that*
19 *cause small businesses, especially sole proprietor-*
20 *ships, to become debtors in cases under title 11,*
21 *United States Code, and that cause certain small*
22 *businesses to successfully complete cases under*
23 *chapter 11 of such title; and*

24 (B) *how Federal laws relating to bank-*
25 *ruptcy may be made more effective and efficient*

1 *in assisting small businesses to remain viable;*
2 *and*

3 *(2) submit to the President pro tempore of the*
4 *Senate and the Speaker of the House of Representa-*
5 *tives a report summarizing that study.*

6 **SEC. 444. PAYMENT OF INTEREST.**

7 *Section 362(d)(3) of title 11, United States Code, is*
8 *amended—*

9 *(1) by inserting “or 30 days after the court de-*
10 *termines that the debtor is subject to this paragraph,*
11 *whichever is later” after “90-day period”;* and

12 *(2) by striking subparagraph (B) and inserting*
13 *the following:*

14 *“(B) the debtor has commenced monthly*
15 *payments that—*

16 *“(i) may, in the debtor’s sole discre-*
17 *tion, notwithstanding section 363(c)(2), be*
18 *made from rents or other income generated*
19 *before or after the commencement of the case*
20 *by or from the property to each creditor*
21 *whose claim is secured by such real estate*
22 *(other than a claim secured by a judgment*
23 *lien or by an unmatured statutory lien);*
24 *and*

1 “(ii) are in an amount equal to inter-
 2 est at the then applicable nondefault con-
 3 tract rate of interest on the value of the
 4 creditor’s interest in the real estate; or”.

5 **SEC. 445. TECHNICAL CORRECTION.**

6 Section 365(b)(2)(D) of title 11, United States Code,
 7 is amended by striking “penalty rate or provision” and in-
 8 serting “penalty rate or penalty provision”.

9 **TITLE V—MUNICIPAL**
 10 **BANKRUPTCY PROVISIONS**

11 **SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETI-**
 12 **TION.**

13 (a) *TECHNICAL AMENDMENT RELATING TO MUNICI-*
 14 *PALITIES.*—Section 921(d) of title 11, United States Code,
 15 is amended by inserting “, notwithstanding section 301(b)”
 16 before the period at the end.

17 (b) *CONFORMING AMENDMENT.*—Section 301 of title
 18 11, United States Code, is amended—

19 (1) by inserting “(a)” before “A voluntary”;

20 (2) by striking the last sentence; and

21 (3) by adding at the end the following:

22 “(b) The commencement of a voluntary case under a
 23 chapter of this title constitutes an order for relief under such
 24 chapter.”.

1 **SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER**2 **9.**

3 *Section 901(a) of title 11, United States Code, is*
 4 *amended—*

5 *(1) by inserting “555, 556,” after “553,”; and*

6 *(2) by inserting “559, 560,” after “557.”*

7 **TITLE VI—IMPROVED BANK-**
 8 **RUPTCY STATISTICS AND**
 9 **DATA**

10 **SEC. 601. AUDIT PROCEDURES.**

11 *(a) AMENDMENTS.—Section 586 of title 28, United*
 12 *States Code, is amended—*

13 *(1) in subsection (a), by striking paragraph (6)*
 14 *and inserting the following:*

15 *“(6) make such reports as the Attorney General*
 16 *directs, including the results of audits performed*
 17 *under subsection (f); and”;* and

18 *(2) by adding at the end the following:*

19 *“(f)(1)(A) The Attorney General shall establish proce-*
 20 *dures to determine the accuracy, veracity, and completeness*
 21 *of petitions, schedules, and other information which the*
 22 *debtor is required to provide under sections 521 and 1322*
 23 *of title 11, and, if applicable, section 111 of title 11, in*
 24 *individual cases filed under chapter 7 or 13 of such title.*

25 *“(B) Those procedures shall—*

1 “(i) establish a method of selecting appropriate
2 qualified persons to contract to perform those audits;

3 “(ii) establish a method of randomly selecting
4 cases to be audited, except that not less than 1 out of
5 every 250 cases in each Federal judicial district shall
6 be selected for audit;

7 “(iii) require audits for schedules of income and
8 expenses which reflect greater than average variances
9 from the statistical norm of the district in which the
10 schedules were filed if those variances occur by reason
11 of higher income or higher expenses than the statis-
12 tical norm of the district in which the schedules were
13 filed; and

14 “(iv) include procedures for providing, not less
15 frequently than annually, public information con-
16 cerning the aggregate results of the audits referred to
17 in this subparagraph, including the percentage of
18 cases, by district, in which a material misstatement
19 of income or expenditures is reported.

20 “(2) The United States trustee for each district may
21 contract with auditors to perform audits in cases designated
22 by the United States trustee according to the procedures es-
23 tablished under paragraph (1).

24 “(3)(A) The report of each audit conducted under this
25 subsection shall be filed with the court and transmitted to

1 *the United States trustee. Each report shall clearly and con-*
2 *spicuously specify any material misstatement of income or*
3 *expenditures or of assets identified by the person performing*
4 *the audit. In any case where a material misstatement of*
5 *income or expenditures or of assets has been reported, the*
6 *clerk of the bankruptcy court shall give notice of the*
7 *misstatement to the creditors in the case.*

8 “(B) *If a material misstatement of income or expendi-*
9 *tures or of assets is reported, the United States trustee*
10 *shall—*

11 “(i) *report the material misstatement, if appro-*
12 *priate, to the United States Attorney under section*
13 *3057 of title 18; and*

14 “(ii) *if advisable, take appropriate action, in-*
15 *cluding commencing an adversary proceeding to re-*
16 *voke the debtor’s discharge under section 727(d) of*
17 *title 11.”.*

18 (b) *AMENDMENTS TO SECTION 521 OF TITLE 11,*
19 *UNITED STATES CODE.—Paragraphs (3) and (4) of section*
20 *521(a) of title 11, United States Code, as amended by sec-*
21 *tion 315 of this Act, are each amended by inserting “or*
22 *an auditor appointed under section 586 of title 28” after*
23 *“serving in the case” each place that term appears.*

1 (c) *AMENDMENTS TO SECTION 727 OF TITLE 11,*
2 *UNITED STATES CODE.*—Section 727(d) of title 11, United
3 *States Code, is amended—*

4 (1) *in paragraph (2), by striking “or” at the*
5 *end;*

6 (2) *in paragraph (3), by striking the period at*
7 *the end and inserting “; or”; and*

8 (3) *by adding at the end the following:*

9 “(4) *the debtor has failed to explain*
10 *satisfactorily—*

11 “(A) *a material misstatement in an audit*
12 *performed under section 586(f) of title 28; or*

13 “(B) *a failure to make available for inspec-*
14 *tion all necessary accounts, papers, documents,*
15 *financial records, files, and any other papers,*
16 *things, or property belonging to the debtor that*
17 *are requested for an audit conducted under sec-*
18 *tion 586(f).”.*

19 (d) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall take effect 18 months after the date of enact-*
21 *ment of this Act.*

22 **SEC. 602. IMPROVED BANKRUPTCY STATISTICS.**

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

1 **“§ 159. Bankruptcy statistics**

2 “(a) *The clerk of each district court shall compile sta-*
3 *tistics regarding individual debtors with primarily con-*
4 *sumer debts seeking relief under chapters 7, 11, and 13 of*
5 *title 11. Those statistics shall be in a form prescribed by*
6 *the Director of the Administrative Office of the United*
7 *States Courts (referred to in this section as the ‘Office’).*

8 “(b) *The Director shall—*

9 “(1) *compile the statistics referred to in sub-*
10 *section (a);*

11 “(2) *make the statistics available to the public;*
12 *and*

13 “(3) *not later than October 31, 1999, and annu-*
14 *ally thereafter, prepare, and submit to Congress a re-*
15 *port concerning the information collected under sub-*
16 *section (a) that contains an analysis of the informa-*
17 *tion.*

18 “(c) *The compilation required under subsection (b)*
19 *shall—*

20 “(1) *be itemized, by chapter, with respect to title*
21 *11;*

22 “(2) *be presented in the aggregate and for each*
23 *district; and*

24 “(3) *include information concerning—*

25 “(A) *the total assets and total liabilities of*
26 *the debtors described in subsection (a), and in*

1 *each category of assets and liabilities, as re-*
2 *ported in the schedules prescribed under section*
3 *2075 and filed by those debtors;*

4 “(B) *the total current monthly income, pro-*
5 *jected monthly net income, and average income,*
6 *and average expenses of those debtors as reported*
7 *on the schedules and statements that each such*
8 *debtor files under sections 111, 521, and 1322 of*
9 *title 11;*

10 “(C) *the aggregate amount of debt dis-*
11 *charged in the reporting period, determined as*
12 *the difference between the total amount of debt*
13 *and obligations of a debtor reported on the sched-*
14 *ules and the amount of such debt reported in cat-*
15 *egories which are predominantly nondischarge-*
16 *able;*

17 “(D) *the average period of time between the*
18 *filing of the petition and the closing of the case;*

19 “(E) *for the reporting period—*

20 “(i) *the number of cases in which a re-*
21 *affirmation was filed; and*

22 “(ii)(I) *the total number of reaffirma-*
23 *tions filed;*

24 “(II) *of those cases in which a reaffir-*
25 *mation was filed, the number in which the*

1 debtor was not represented by an attorney;
2 and

3 “(III) of the cases under each of sub-
4 clauses (I) and (II), the number of cases in
5 which the reaffirmation was approved by
6 the court;

7 “(F) with respect to cases filed under chap-
8 ter 13 of title 11, for the reporting period—

9 “(i)(I) the number of cases in which a
10 final order was entered determining the
11 value of property securing a claim in an
12 amount less than the amount of the claim;
13 and

14 “(II) the number of final orders deter-
15 mining the value of property securing a
16 claim issued;

17 “(ii) the number of cases dismissed for
18 failure to make payments under the plan;
19 and

20 “(iii) the number of cases in which the
21 debtor filed another case during the 6-year
22 period preceding the date of filing;

23 “(G) the number of cases in which creditors
24 were fined for misconduct and any amount of

1 *punitive damages awarded by the court for cred-*
2 *itor misconduct; and*

3 *“(H) the number of cases in which sanc-*
4 *tions under Rule 9011 of the Federal Rules of*
5 *Bankruptcy Procedure were imposed against*
6 *debtor’s counsel and damages awarded under*
7 *such rule.”.*

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

“159. Bankruptcy statistics.”.

11 (c) *EFFECTIVE DATE.*—*The amendments made by this*
12 *section shall take effect 18 months after the date of enact-*
13 *ment of this Act.*

14 **SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANK-**
15 **RUPTCY DATA.**

16 (a) *AMENDMENT.*—*Chapter 39 of title 28, United*
17 *States Code, is amended by inserting after section 589a the*
18 *following:*

19 **“§ 589b. Bankruptcy data**

20 *“(a) Within a reasonable period of time after the effec-*
21 *tive date of this section, the Attorney General of the United*
22 *States shall issue rules requiring uniform forms for (and*
23 *from time to time thereafter to appropriately modify and*
24 *approve)—*

1 “(1) *final reports by trustees in cases under*
2 *chapters 7, 12, and 13 of title 11; and*

3 “(2) *periodic reports by debtors in possession or*
4 *trustees, as the case may be, in cases under chapter*
5 *11 of title 11.*

6 “(b) *Each report referred to in subsection (a) shall be*
7 *designed (and the requirements as to place and manner of*
8 *filing shall be established) so as to facilitate compilation*
9 *of data and maximum practicable access of the public, by—*

10 “(1) *physical inspection at 1 or more central fil-*
11 *ing locations; and*

12 “(2) *electronic access through the Internet or*
13 *other appropriate media.*

14 “(c)(1) *The information required to be filed in the re-*
15 *ports referred to in subsection (b) shall be information that*
16 *is—*

17 “(A) *in the best interests of debtors and creditors,*
18 *and in the public interest; and*

19 “(B) *reasonable and adequate information to*
20 *evaluate the efficiency and practicality of the Federal*
21 *bankruptcy system.*

22 “(2) *In issuing rules proposing the forms referred to*
23 *in subsection (a), the Attorney General shall strike the best*
24 *achievable practical balance between—*

1 “(A) *the reasonable needs of the public for infor-*
2 *mation about the operational results of the Federal*
3 *bankruptcy system; and*

4 “(B) *economy, simplicity, and lack of undue*
5 *burden on persons with a duty to file reports.*

6 “(d)(1) *Final reports proposed for adoption by trustees*
7 *under chapters 7, 12, and 13 of title 11 shall include with*
8 *respect to a case under such title, by appropriate category—*

9 “(A) *information about the length of time the*
10 *case was pending;*

11 “(B) *assets abandoned;*

12 “(C) *assets exempted;*

13 “(D) *receipts and disbursements of the estate;*

14 “(E) *expenses of administration;*

15 “(F) *claims asserted;*

16 “(G) *claims allowed; and*

17 “(H) *distributions to claimants and claims dis-*
18 *charged without payment.*

19 “(2) *In cases under chapters 12 and 13 of title 11,*
20 *final reports proposed for adoption by trustees shall*
21 *include—*

22 “(A) *the date of confirmation of the plan;*

23 “(B) *each modification to the plan; and*

24 “(C) *defaults by the debtor in performance under*
25 *the plan.*

1 “(3) *The information described in paragraphs (1) and*
2 *(2) shall be in addition to such other matters as are re-*
3 *quired by law for a final report or as the Attorney General,*
4 *in the discretion of the Attorney General, may propose for*
5 *a final report.*

6 “(e)(1) *Periodic reports proposed for adoption by*
7 *trustees or debtors in possession under chapter 11 of title*
8 *11 shall include—*

9 “(A) *information about the standard industry*
10 *classification, published by the Department of Com-*
11 *merce, for the businesses conducted by the debtor;*

12 “(B) *the length of time the case has been pend-*
13 *ing;*

14 “(C) *the number of full-time employees—*

15 “(i) *as of the date of the order for relief; and*

16 “(ii) *at the end of each reporting period*
17 *since the case was filed;*

18 “(D) *cash receipts, cash disbursements, and prof-*
19 *itability of the debtor for the most recent period and*
20 *cumulatively since the date of the order for relief;*

21 “(E) *compliance with title 11, whether or not*
22 *tax returns and tax payments since the date of the*
23 *order for relief have been timely filed and made;*

24 “(F) *all professional fees approved by the court*
25 *in the case for the most recent period and cumula-*

1 *tively since the date of the order for relief (separately*
 2 *reported, for the professional fees incurred by or on*
 3 *behalf of the debtor, between those that would have*
 4 *been incurred absent a bankruptcy case and those*
 5 *that would not have been so incurred); and*

6 *“(G) plans of reorganization filed and confirmed*
 7 *and, with respect thereto, by class, the recoveries of*
 8 *the holders, expressed in aggregate dollar values and,*
 9 *in the case of claims, as a percentage of total claims*
 10 *of the class allowed.*

11 *“(2) The information described in paragraph (1) shall*
 12 *be in addition to such other matters as are required by law*
 13 *for a periodic report or as the Attorney General, in the dis-*
 14 *cretion of the Attorney General, may propose for a periodic*
 15 *report.”.*

16 *(b) TECHNICAL AMENDMENT.—The table of sections for*
 17 *chapter 39 of title 28, United States Code, is amended by*
 18 *adding at the end the following:*

“589b. Bankruptcy data.”.

19 **SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY**
 20 **OF BANKRUPTCY DATA.**

21 *It is the sense of Congress that—*

22 *(1) it should be the national policy of the United*
 23 *States that all data held by bankruptcy clerks in elec-*
 24 *tronic form, to the extent such data reflects only pub-*
 25 *lic records (as defined in section 107 of title 11,*

1 *United States Code), should be released in a usable*
2 *electronic form in bulk to the public subject to such*
3 *appropriate privacy concerns and safeguards as the*
4 *Judicial Conference of the United States may deter-*
5 *mine; and*

6 *(2) there should be established a bankruptcy data*
7 *system in which—*

8 *(A) a single set of data definitions and*
9 *forms are used to collect data nationwide; and*

10 *(B) data for any particular bankruptcy*
11 *case are aggregated in the same electronic record.*

12 **TITLE VII—BANKRUPTCY TAX**
13 **PROVISIONS**

14 **SEC. 701. TREATMENT OF CERTAIN LIENS.**

15 *(a) TREATMENT OF CERTAIN LIENS.—Section 724 of*
16 *title 11, United States Code, is amended—*

17 *(1) in subsection (b), in the matter preceding*
18 *paragraph (1), by inserting “(other than to the extent*
19 *that there is a properly perfected unavoidable tax lien*
20 *arising in connection with an ad valorem tax on real*
21 *or personal property of the estate)” after “under this*
22 *title”;*

23 *(2) in subsection (b)(2), by inserting “(except*
24 *that such expenses, other than claims for wages, sala-*
25 *ries, or commissions which arise after the filing of a*

1 *petition, shall be limited to expenses incurred under*
2 *chapter 7 of this title and shall not include expenses*
3 *incurred under chapter 11 of this title)” after*
4 *“507(a)(1)”;* and

5 *(3) by adding at the end the following:*

6 *“(e) Before subordinating a tax lien on real or per-*
7 *sonal property of the estate, the trustee shall—*

8 *“(1) exhaust the unencumbered assets of the es-*
9 *tate; and*

10 *“(2) in a manner consistent with section 506(c),*
11 *recover from property securing an allowed secured*
12 *claim the reasonable, necessary costs and expenses of*
13 *preserving or disposing of that property.*

14 *“(f) Notwithstanding the exclusion of ad valorem tax*
15 *liens under this section and subject to the requirements of*
16 *subsection (e), the following may be paid from property of*
17 *the estate which secures a tax lien, or the proceeds of such*
18 *property:*

19 *“(1) Claims for wages, salaries, and commissions*
20 *that are entitled to priority under section 507(a)(4).*

21 *“(2) Claims for contributions to an employee*
22 *benefit plan entitled to priority under section*
23 *507(a)(5).”.*

24 *(b) DETERMINATION OF TAX LIABILITY.—Section*
25 *505(a)(2) of title 11, United States Code, is amended—*

1 (1) *in subparagraph (A), by striking “or” at the*
2 *end;*

3 (2) *in subparagraph (B), by striking the period*
4 *at the end and inserting “; or”; and*

5 (3) *by adding at the end the following:*

6 “(C) *the amount or legality of any amount aris-*
7 *ing in connection with an ad valorem tax on real or*
8 *personal property of the estate, if the applicable pe-*
9 *riod for contesting or redetermining that amount*
10 *under any law (other than a bankruptcy law) has ex-*
11 *pired.”.*

12 **SEC. 702. TREATMENT OF FUEL TAX CLAIMS.**

13 *Section 501 of title 11, United States Code, is amended*
14 *by adding at the end the following:*

15 “(e) *A claim arising from the liability of a debtor for*
16 *fuel use tax assessed consistent with the requirements of sec-*
17 *tion 31705 of title 49 may be filed by the base jurisdiction*
18 *designated pursuant to the International Fuel Tax Agree-*
19 *ment and, if so filed, shall be allowed as a single claim.”.*

20 **SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF**
21 **TAXES.**

22 *Section 505(b) of title 11, United States Code, is*
23 *amended—*

1 (1) *in the first sentence, by inserting “at the ad-*
2 *dress and in the manner designated in paragraph*
3 *(1)” after “determination of such tax”;*

4 (2) *by striking “(1) upon payment” and insert-*
5 *ing “(2)(A) upon payment”;*

6 (3) *by striking “(A) such governmental unit”*
7 *and inserting “(i) such governmental unit”;*

8 (4) *by striking “(B) such governmental unit”*
9 *and inserting “(ii) such governmental unit”;*

10 (5) *by striking “(2) upon payment” and insert-*
11 *ing “(B) upon payment”;*

12 (6) *by striking “(3) upon payment” and insert-*
13 *ing “(C) upon payment”;*

14 (7) *by striking “(b)” and inserting “(2)”;* and

15 (8) *by inserting before paragraph (2), as so des-*
16 *ignated, the following:*

17 “(b)(1)(A) *The clerk of each district shall maintain a*
18 *listing under which a Federal, State, or local governmental*
19 *unit responsible for the collection of taxes within the district*
20 *may—*

21 *“(i) designate an address for service of requests*
22 *under this subsection; and*

23 *“(ii) describe where further information con-*
24 *cerning additional requirements for filing such re-*
25 *quests may be found.*

1 “(B) If a governmental unit referred to in subpara-
2 graph (A) does not designate an address and provide that
3 address to the clerk under that subparagraph, any request
4 made under this subsection may be served at the address
5 for the filing of a tax return or protest with the appropriate
6 taxing authority of that governmental unit.”.

7 **SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

8 (a) *IN GENERAL.*—Subchapter I of chapter 5 of title
9 11, United States Code, is amended by adding at the end
10 the following:

11 **“§ 511. Rate of interest on tax claims**

12 “(a) If any provision of this title requires the payment
13 of interest on a tax claim or the payment of interest to
14 enable a creditor to receive the present value of the allowed
15 amount of a tax claim, the rate of interest shall be the rate
16 shall be determined under applicable nonbankruptcy law.

17 “(b) In the case of taxes paid under a confirmed plan
18 under this title, the rate of interest shall be determined as
19 of the calendar month in which the plan is confirmed.”.

20 (b) *CLERICAL AMENDMENT.*—The table of sections for
21 chapter 5 of title 11, United States Code, is amended by
22 inserting after the item relating to section 510 the following:
“511. Rate of interest on tax claims.”.

23 **SEC. 705. PRIORITY OF TAX CLAIMS.**

24 Section 507(a)(8) of title 11, United States Code, is
25 amended—

1 (1) *in subparagraph (A)—*

2 (A) *in the matter preceding clause (i), by*
3 *inserting “for a taxable year ending on or before*
4 *the date of filing of the petition” after “gross re-*
5 *ceipts”;*

6 (B) *in clause (i)—*

7 (i) *by striking “for a taxable year end-*
8 *ing on or before the date of filing of the pe-*
9 *tition”;* and

10 (ii) *by inserting before the semicolon at*
11 *the end, the following: “, plus any time dur-*
12 *ing which the stay of proceedings was in ef-*
13 *fect in a prior case under this title or dur-*
14 *ing which collection was precluded by the*
15 *existence of 1 or more confirmed plans*
16 *under this title, plus 90 days”;* and

17 (C) *by striking clause (ii) and inserting the*
18 *following:*

19 “(ii) *assessed within 240 days before*
20 *the date of the filing of the petition, exclu-*
21 *sive of—*

22 (I) *any time during which an*
23 *offer in compromise with respect to*
24 *that tax was pending or in effect dur-*

1 *ing that 240-day period, plus 30 days;*

2 *and*

3 *“(II) any time during which a*
4 *stay of proceedings against collections*
5 *was in effect in a prior case under this*
6 *title during that 240-day period; plus*
7 *90 days.”; and*

8 *(2) by adding at the end the following:*

9 *“(H) An otherwise applicable time period*
10 *specified in this paragraph shall be suspended*
11 *for—*

12 *“(i) any period during which a gov-*
13 *ernmental unit is prohibited under applica-*
14 *ble nonbankruptcy law from collecting a tax*
15 *as a result of a request by the debtor for a*
16 *hearing and an appeal of any collection ac-*
17 *tion taken or proposed against the debtor;*
18 *plus*

19 *“(ii) 90 days.”.*

20 **SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

21 *Section 507(a)(9)(B) of title 11, United States Code,*
22 *is amended by striking “assessed” and inserting “in-*
23 *curred”.*

1 **SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**

2 **TER 13.**

3 *Section 1328(a)(2) of title 11, United States Code, as*
4 *amended by sections 105, 213, and 314 of this Act, is*
5 *amended—*

6 *(1) by inserting “(1)(B), (1)(C),” after “para-*
7 *graph”; and*

8 *(2) by inserting “and in section 507(a)(8)(C)”*
9 *after “section 523(a)”.*

10 **SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAP-**

11 **TER 11.**

12 *Section 1141(d) of title 11, United States Code, is*
13 *amended by adding at the end the following:*

14 *“(5) Notwithstanding paragraph (1), the confirmation*
15 *of a plan does not discharge a debtor that is a corporation*
16 *from any debt for a tax or customs duty with respect to*
17 *which the debtor—*

18 *“(A) made a fraudulent return; or*

19 *“(B) willfully attempted in any manner to evade*
20 *or defeat that tax or duty.”.*

21 **SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO**

22 **PREPETITION TAXES.**

23 *Section 362(a)(8) of title 11, United States Code, is*
24 *amended by inserting “, with respect to a tax liability for*
25 *a taxable period ending before the order for relief under this*
26 *title” before the semicolon at the end.*

1 **SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

2 **CASES.**

3 *Section 1129(a)(9) of title 11, United States Code, is*
4 *amended—*

5 *(1) in subparagraph (B), by striking “and” at*
6 *the end;*

7 *(2) in subparagraph (C), by striking “deferred*
8 *cash payments, over a period not exceeding six years*
9 *after the date of assessment of such claim,” and all*
10 *that follows through the end of the subparagraph, and*
11 *inserting “regular installment payments in cash—*

12 *“(i) of a total value, as of the effective*
13 *date of the plan, equal to the allowed*
14 *amount of such claim;*

15 *“(ii) with interest thereon calculated at*
16 *the rate provided in section 6621(a)(2) of*
17 *the Internal Revenue Code of 1986;*

18 *“(iii) over a period ending not later*
19 *than 5 years after the date of the entry of*
20 *the order for relief under section 301, 302,*
21 *or 303; and*

22 *“(iv) in a manner not less favorable*
23 *than the most favored nonpriority unse-*
24 *cured claim provided for in the plan (other*
25 *than cash payments made to a class of*
26 *creditors under section 1122(b)); and”;* and

1 (3) by adding at the end the following:

2 “(D) with respect to a secured claim which
3 would otherwise meet the description of an unse-
4 cured claim of a governmental unit under sec-
5 tion 507(a)(8), but for the secured status of that
6 claim, the holder of that claim will receive on ac-
7 count of that claim, cash payments, in the same
8 manner and over the same period, as prescribed
9 in subparagraph (C).”.

10 **SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIB-**
11 **ITED.**

12 Section 545(2) of title 11, United States Code, is
13 amended by striking the semicolon at the end and inserting
14 “, except in any case in which a purchaser is a purchaser
15 described in section 6323 of the Internal Revenue Code of
16 1986, or in any other similar provision of State or local
17 law;”.

18 **SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
19 **NESS.**

20 (a) **PAYMENT OF TAXES REQUIRED.**—Section 960 of
21 title 28, United States Code, is amended—

22 (1) by inserting “(a)” before “Any”; and

23 (2) by adding at the end the following:

1 “(b) A tax under subsection (a) shall be paid on or
2 before the due date of the tax under applicable nonbank-
3 ruptcy law, unless—

4 “(1) the tax is a property tax secured by a lien
5 against property that is abandoned within a reason-
6 able period of time after the lien attaches by the trust-
7 ee of a bankruptcy estate under section 554 of title 11;
8 or

9 “(2) payment of the tax is excused under a spe-
10 cific provision of title 11.

11 “(c) In a case pending under chapter 7 of title 11,
12 payment of a tax may be deferred until final distribution
13 is made under section 726 of title 11, if—

14 “(1) the tax was not incurred by a trustee duly
15 appointed under chapter 7 of title 11; or

16 “(2) before the due date of the tax, an order of
17 the court makes a finding of probable insufficiency of
18 funds of the estate to pay in full the administrative
19 expenses allowed under section 503(b) of title 11 that
20 have the same priority in distribution under section
21 726(b) of title 11 as the priority of that tax.”.

22 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
23 Section 503(b)(1)(B)(i) of title 11, United States Code, is
24 amended by inserting “whether secured or unsecured, in-

1 *cluding property taxes for which liability is in rem, in per-*
2 *sonam, or both,” before “except”.*

3 *(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EX-*
4 *PENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11,*
5 *United States Code, is amended—*

6 *(1) in subparagraph (B), by striking “and” at*
7 *the end;*

8 *(2) in subparagraph (C), by adding “and” at the*
9 *end; and*

10 *(3) by adding at the end the following:*

11 *“(D) notwithstanding the requirements of sub-*
12 *section (a), a governmental unit shall not be required*
13 *to file a request for the payment of an expense de-*
14 *scribed in subparagraph (B) or (C), as a condition of*
15 *its being an allowed administrative expense;”.*

16 *(d) PAYMENT OF TAXES AND FEES AS SECURED*
17 *CLAIMS.—Section 506 of title 11, United States Code, is*
18 *amended—*

19 *(1) in subsection (b), by inserting “or State stat-*
20 *ute” after “agreement”; and*

21 *(2) in subsection (c), by inserting “, including*
22 *the payment of all ad valorem property taxes with re-*
23 *spect to the property” before the period at the end.*

1 **SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

2 *Section 726(a)(1) of title 11, United States Code, is*
3 *amended by striking “before the date on which the trustee*
4 *commences distribution under this section;” and inserting*
5 *the following: “on or before the earlier of—*

6 *“(A) the date that is 10 days after the mail-*
7 *ing to creditors of the summary of the trustee’s*
8 *final report; or*

9 *“(B) the date on which the trustee com-*
10 *mences final distribution under this section;”.*

11 **SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AU-**
12 **THORITIES.**

13 *Section 523(a) of title 11, United States Code, is*
14 *amended—*

15 *(1) in paragraph (1)(B)—*

16 *(A) in the matter preceding clause (i), by*
17 *inserting “or equivalent report or notice,” after*
18 *“a return,”;*

19 *(B) in clause (i)—*

20 *(i) by inserting “or given” after*
21 *“filed”; and*

22 *(ii) by striking “or” at the end; and*

23 *(C) in clause (ii)—*

24 *(i) by inserting “or given” after*
25 *“filed”; and*

1 (ii) by inserting “, report, or notice”
2 after “return”; and

3 (2) by adding at the end the following flush sen-
4 tences:

5 “For purposes of this subsection, the term ‘return’ means
6 a return that satisfies the requirements of applicable non-
7 bankruptcy law (including applicable filing requirements).
8 Such term includes a return prepared pursuant to section
9 6020(a) of the Internal Revenue Code of 1986, or similar
10 State or local law, or a written stipulation to a judgment
11 or a final order entered by a nonbankruptcy tribunal, but
12 does not include a return made pursuant to section 6020(b)
13 of the Internal Revenue Code of 1986, or a similar State
14 or local law.”.

15 **SEC. 715. DISCHARGE OF THE ESTATE’S LIABILITY FOR UN-**
16 **PAID TAXES.**

17 *The second sentence of section 505(b) of title 11, United*
18 *States Code, as amended by section 703 of this Act, is*
19 *amended by inserting “the estate,” after “misrepresenta-*
20 *tion,”.*

21 **SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CON-**
22 **FIRM CHAPTER 13 PLANS.**

23 (a) *FILING OF PREPETITION TAX RETURNS REQUIRED*
24 *FOR PLAN CONFIRMATION.*—Section 1325(a) of title 11,

1 *United States Code, as amended by section 213 of this Act,*
2 *is amended—*

3 (1) *in paragraph (6), by striking “and” at the*
4 *end;*

5 (2) *in paragraph (7), by striking the period at*
6 *the end and inserting “; and”; and*

7 (3) *by inserting after paragraph (7) the fol-*
8 *lowing:*

9 “(8) *if the debtor has filed all applicable Federal,*
10 *State, and local tax returns as required by section*
11 *1308.”.*

12 (b) *ADDITIONAL TIME PERMITTED FOR FILING TAX*
13 *RETURNS.—*

14 (1) *IN GENERAL.—Chapter 13 of title 11, United*
15 *States Code, is amended by adding at the end the fol-*
16 *lowing:*

17 **“§ 1308. *Filing of prepetition tax returns***

18 “(a) *Not later than the day before the date on which*
19 *the meeting of the creditors is first scheduled to be held*
20 *under section 341(a), the debtor shall file with appropriate*
21 *tax authorities all tax returns for all taxable periods ending*
22 *during the 4-year period ending on the date of the filing*
23 *of the petition.*

24 “(b)(1) *Subject to paragraph (2), if the tax returns re-*
25 *quired by subsection (a) have not been filed by the date on*

1 *which the meeting of creditors is first scheduled to be held*
2 *under section 341(a), the trustee may hold open that meet-*
3 *ing for a reasonable period of time to allow the debtor an*
4 *additional period of time to file any unfiled returns, but*
5 *such additional period of time shall not extend beyond—*

6 “(A) *for any return that is past due as of the*
7 *date of the filing of the petition, the date that is 120*
8 *days after the date of that meeting; or*

9 “(B) *for any return that is not past due as of*
10 *the date of the filing of the petition, the later of—*

11 “(i) *the date that is 120 days after the date*
12 *of that meeting; or*

13 “(ii) *the date on which the return is due*
14 *under the last automatic extension of time for*
15 *filing that return to which the debtor is entitled,*
16 *and for which request is timely made, in accord-*
17 *ance with applicable nonbankruptcy law.*

18 “(2) *Upon notice and hearing, and order entered before*
19 *the tolling of any applicable filing period determined under*
20 *this subsection, if the debtor demonstrates by clear and con-*
21 *vincing evidence that the failure to file a return as required*
22 *under this subsection is attributable to circumstances be-*
23 *yond the control of the debtor, the court may extend the*
24 *filing period established by the trustee under this subsection*
25 *for—*

1 “(A) a period of not more than 30 days for re-
2 turns described in paragraph (1); and

3 “(B) a period not to extend after the applicable
4 extended due date for a return described in paragraph
5 (2).

6 “(c) For purposes of this section, the term ‘return’ in-
7 cludes a return prepared pursuant to section 6020 (a) or
8 (b) of the Internal Revenue Code of 1986, or a similar State
9 or local law, or a written stipulation to a judgment or a
10 final order entered by a nonbankruptcy tribunal.”

11 (2) *CONFORMING AMENDMENT.*—The table of sec-
12 tions for chapter 13 of title 11, United States Code,
13 is amended by inserting after the item relating to sec-
14 tion 1307 the following:

“1308. Filing of prepetition tax returns.”

15 (c) *DISMISSAL OR CONVERSION ON FAILURE TO COM-*
16 *PLY.*—Section 1307 of title 11, United States Code, is
17 amended—

18 (1) by redesignating subsections (e) and (f) as
19 subsections (f) and (g), respectively; and

20 (2) by inserting after subsection (d), the fol-
21 lowing:

22 “(e) Upon the failure of the debtor to file a tax return
23 under section 1308, on request of a party in interest or the
24 United States trustee and after notice and a hearing, the
25 court shall dismiss a case or convert a case under this chap-

1 *ter to a case under chapter 7 of this title, whichever is in*
2 *the best interest of the creditors and the estate.”.*

3 (d) *TIMELY FILED CLAIMS.*—Section 502(b)(9) of title
4 11, United States Code, is amended by inserting before the
5 period at the end the following “, and except that in a case
6 under chapter 13, a claim of a governmental unit for a
7 tax with respect to a return filed under section 1308 shall
8 be timely if the claim is filed on or before the date that
9 is 60 days after the date on which such return was filed
10 as required”.

11 (e) *RULES FOR OBJECTIONS TO CLAIMS AND TO CON-*
12 *FIRMATION.*—It is the sense of Congress that the Advisory
13 Committee on Bankruptcy Rules of the Judicial Conference
14 should, as soon as practicable after the date of enactment
15 of this Act, propose for adoption amended Federal Rules
16 of Bankruptcy Procedure which provide that—

17 (1) *notwithstanding the provisions of Rule*
18 *3015(f), in cases under chapter 13 of title 11, United*
19 *States Code, an objection to the confirmation of a*
20 *plan filed by a governmental unit on or before the*
21 *date that is 60 days after the date on which the debtor*
22 *files all tax returns required under sections 1308 and*
23 *1325(a)(7) of title 11, United States Code, shall be*
24 *treated for all purposes as if such objection had been*
25 *timely filed before such confirmation; and*

1 (2) *in addition to the provisions of Rule 3007,*
2 *in a case under chapter 13 of title 11, United States*
3 *Code, no objection to a tax with respect to which a*
4 *return is required to be filed under section 1308 of*
5 *title 11, United States Code, shall be filed until such*
6 *return has been filed as required.*

7 **SEC. 717. STANDARDS FOR TAX DISCLOSURE.**

8 *Section 1125(a)(1) of title 11, United States Code, is*
9 *amended—*

10 (1) *by inserting “including a discussion of the*
11 *potential material Federal tax consequences of the*
12 *plan to the debtor, any successor to the debtor, and*
13 *a hypothetical investor typical of the holders of claims*
14 *or interests in the case,” after “records”; and*

15 (2) *by striking “a hypothetical reasonable inves-*
16 *tor typical of holders of claims or interests” and in-*
17 *serting “such a hypothetical investor”.*

18 **SEC. 718. SETOFF OF TAX REFUNDS.**

19 *Section 362(b) of title 11, United States Code, as*
20 *amended by section 402 of this Act, is amended—*

21 (1) *in paragraph (25), by striking “or” at the*
22 *end;*

23 (2) *in paragraph (26), by striking the period at*
24 *the end and inserting “; or”; and*

1 (3) by inserting after paragraph (26) the fol-
2 lowing:

3 “(27) under subsection (a), of the setoff under
4 applicable nonbankruptcy law of an income tax re-
5 fund, by a governmental unit, with respect to a tax-
6 able period that ended before the order for relief
7 against an income tax liability for a taxable period
8 that also ended before the order for relief, except that
9 in any case in which the setoff of an income tax re-
10 fund is not permitted under applicable nonbank-
11 ruptcy law because of a pending action to determine
12 the amount or legality of a tax liability, the govern-
13 mental unit may hold the refund pending the resolu-
14 tion of the action, unless the court, upon motion of
15 the trustee and after notice and hearing, grants the
16 taxing authority adequate protection (within the
17 meaning of section 361) for the secured claim of that
18 authority in the setoff under section 506(a).”.

19 **SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREAT-**
20 **MENT OF STATE AND LOCAL TAXES.**

21 (a) *IN GENERAL.*—Section 346 of title 11, United
22 *States Code, is amended to read as follows:*

1 **“SEC. 346. SPECIAL PROVISIONS RELATED TO THE TREAT-**
2 **MENT OF STATE AND LOCAL TAXES.**

3 “(a) Whenever the Internal Revenue Code of 1986 pro-
4 vides that a separate taxable estate or entity is created in
5 a case concerning a debtor under this title, and the income,
6 gain, loss, deductions, and credits of such estate shall be
7 taxed to or claimed by the estate, a separate taxable estate
8 is also created for purposes of any State and local law im-
9 posing a tax on or measured by income and such income,
10 gain, loss, deductions, and credits shall be taxed to or
11 claimed by the estate and may not be taxed to or claimed
12 by the debtor. The preceding sentence shall not apply if the
13 case is dismissed. The trustee shall make tax returns of in-
14 come required under any such State or local law.

15 “(b) Whenever the Internal Revenue Code of 1986 pro-
16 vides that no separate taxable estate shall be created in a
17 case concerning a debtor under this title, and the income,
18 gain, loss, deductions, and credits of an estate shall be taxed
19 to or claimed by the debtor, such income, gain, loss, deduc-
20 tions, and credits shall be taxed to or claimed by the debtor
21 under a State or local law imposing a tax on or measured
22 by income and may not be taxed to or claimed by the estate.
23 The trustee shall make such tax returns of income of cor-
24 porations and of partnerships as are required under any
25 State or local law, but with respect to partnerships, shall
26 make said returns only to the extent such returns are also

1 *required to be made under such Code. The estate shall be*
2 *liable for any tax imposed on such corporation or partner-*
3 *ship, but not for any tax imposed on partners or members.*

4 “(c) *With respect to a partnership or any entity treat-*
5 *ed as a partnership under a State or local law imposing*
6 *a tax on or measured by income that is a debtor in a case*
7 *under this title, any gain or loss resulting from a distribu-*
8 *tion of property from such partnership, or any distributive*
9 *share of any income, gain, loss, deduction, or credit of a*
10 *partner or member that is distributed, or considered distrib-*
11 *uted, from such partnership, after the commencement of the*
12 *case, is gain, loss, income, deduction, or credit, as the case*
13 *may be, of the partner or member, and if such partner or*
14 *member is a debtor in a case under this title, shall be subject*
15 *to tax in accordance with subsection (a) or (b).*

16 “(d) *For purposes of any State or local law imposing*
17 *a tax on or measured by income, the taxable period of a*
18 *debtor in a case under this title shall terminate only if and*
19 *to the extent that the taxable period of such debtor termi-*
20 *nates under the Internal Revenue Code of 1986.*

21 “(e) *The estate in any case described in subsection (a)*
22 *shall use the same accounting method as the debtor used*
23 *immediately before the commencement of the case, if such*
24 *method of accounting complies with applicable nonbank-*
25 *ruptcy tax law.*

1 “(f) For purposes of any State or local law imposing
2 a tax on or measured by income, a transfer of property
3 from the debtor to the estate or from the estate to the debtor
4 shall not be treated as a disposition for purposes of any
5 provision assigning tax consequences to a disposition, ex-
6 cept to the extent that such transfer is treated as a disposi-
7 tion under the Internal Revenue Code of 1986.

8 “(g) Whenever a tax is imposed pursuant to a State
9 or local law imposing a tax on or measured by income pur-
10 suant to subsection (a) or (b), such tax shall be imposed
11 at rates generally applicable to the same types of entities
12 under such State or local law.

13 “(h) The trustee shall withhold from any payment of
14 claims for wages, salaries, commissions, dividends, interest,
15 or other payments, or collect, any amount required to be
16 withheld or collected under applicable State or local tax
17 law, and shall pay such withheld or collected amount to
18 the appropriate governmental unit at the time and in the
19 manner required by such tax law, and with the same pri-
20 ority as the claim from which such amount was withheld
21 or collected was paid.

22 “(i)(1) To the extent that any State or local law im-
23 posing a tax on or measured by income provides for the
24 carryover of any tax attribute from one taxable period to
25 a subsequent taxable period, the estate shall succeed to such

1 *tax attribute in any case in which such estate is subject*
2 *to tax under subsection (a).*

3 “(2) *After such a case is closed or dismissed, the debtor*
4 *shall succeed to any tax attribute to which the estate suc-*
5 *ceeded under paragraph (1) to the extent consistent with*
6 *the Internal Revenue Code of 1986.*

7 “(3) *The estate may carry back any loss or tax at-*
8 *tribute to a taxable period of the debtor that ended before*
9 *the order for relief under this title to the extent that—*

10 “(A) *applicable State or local tax law provides*
11 *for a carryback in the case of the debtor; and*

12 “(B) *the same or a similar tax attribute may be*
13 *carried back by the estate to such a taxable period of*
14 *the debtor under the Internal Revenue Code of 1986.*

15 “(j)(1) *For purposes of any State or local law impos-*
16 *ing a tax on or measured by income, income is not realized*
17 *by the estate, the debtor, or a successor to the debtor by rea-*
18 *son of discharge of indebtedness in a case under this title,*
19 *except to the extent, if any, that such income is subject to*
20 *tax under the Internal Revenue Code of 1986.*

21 “(2) *Whenever the Internal Revenue Code of 1986 pro-*
22 *vides that the amount excluded from gross income in respect*
23 *of the discharge of indebtedness in a case under this title*
24 *shall be applied to reduce the tax attributes of the debtor*
25 *or the estate, a similar reduction shall be made under any*

1 *State or local law imposing a tax on or measured by income*
2 *to the extent such State or local law recognizes such at-*
3 *tributes. Such State or local law may also provide for the*
4 *reduction of other attributes to the extent that the full*
5 *amount of income from the discharge of indebtedness has*
6 *not been applied.*

7 “(k)(1) *Except as provided in this section and section*
8 *505, the time and manner of filing tax returns and the*
9 *items of income, gain, loss, deduction, and credit of any*
10 *taxpayer shall be determined under applicable nonbank-*
11 *ruptcy law.*

12 “(2) *For Federal tax purposes, the provisions of this*
13 *section are subject to the Internal Revenue Code of 1986*
14 *and other applicable Federal nonbankruptcy law.”.*

15 (b) *CONFORMING AMENDMENTS.—*

16 (1) *Section 728 of title 11, United States Code,*
17 *is repealed.*

18 (2) *Section 1146 of title 11, United States Code,*
19 *is amended by striking subsections (a) and (b) and by*
20 *redesignating subsections (c) and (d) as subsections*
21 *(a) and (b), respectively.*

22 (3) *Section 1231 of title 11, United States Code,*
23 *is amended by striking subsections (a) and (b) and by*
24 *redesignating subsections (c) and (d) as subsections*
25 *(a) and (b), respectively.*

1 **SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RE-**
2 **TURNS.**

3 *Section 521 of title 11, United States Code, as amend-*
4 *ed by this Act, is amended by adding at the end the fol-*
5 *lowing:*

6 *“(k)(1) Notwithstanding any other provision of this*
7 *title, if the debtor fails to file a tax return that becomes*
8 *due after the commencement of the case or to properly ob-*
9 *tain an extension of the due date for filing such return,*
10 *the taxing authority may request that the court enter an*
11 *order converting or dismissing the case.*

12 *“(2) If the debtor does not file the required return or*
13 *obtain the extension referred to in paragraph (1) within*
14 *90 days after a request is filed by the taxing authority*
15 *under that paragraph, the court shall convert or dismiss*
16 *the case, whichever is in the best interests of creditors and*
17 *the estate.”.*

18 **TITLE VIII—ANCILLARY AND**
19 **OTHER CROSS-BORDER CASES**

20 **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**
21 **UNITED STATES CODE.**

22 *(a) IN GENERAL.—Title 11, United States Code, is*
23 *amended by inserting after chapter 13 the following:*

1 **“CHAPTER 15—ANCILLARY AND OTHER**
 2 **CROSS-BORDER CASES**

“Sec.

“1501. *Purpose and scope of application.*

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. *Definitions.*

“1503. *International obligations of the United States.*

“1504. *Commencement of ancillary case.*

“1505. *Authorization to act in a foreign country.*

“1506. *Public policy exception.*

“1507. *Additional assistance.*

“1508. *Interpretation.*

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
 CREDITORS TO THE COURT

“1509. *Right of direct access.*

“1510. *Limited jurisdiction.*

“1511. *Commencement of case under section 301 or 303.*

“1512. *Participation of a foreign representative in a case under this title.*

“1513. *Access of foreign creditors to a case under this title.*

“1514. *Notification to foreign creditors concerning a case under this title.*

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND
 RELIEF

“1515. *Application for recognition of a foreign proceeding.*

“1516. *Presumptions concerning recognition.*

“1517. *Order recognizing a foreign proceeding.*

“1518. *Subsequent information.*

“1519. *Relief that may be granted upon petition for recognition of a foreign proceeding.*

“1520. *Effects of recognition of a foreign main proceeding.*

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

“1522. *Protection of creditors and other interested persons.*

“1523. *Actions to avoid acts detrimental to creditors.*

“1524. *Intervention by a foreign representative.*

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
 FOREIGN REPRESENTATIVES

“1525. *Cooperation and direct communication between the court and foreign courts or foreign representatives.*

“1526. *Cooperation and direct communication between the trustee and foreign courts or foreign representatives.*

“1527. *Forms of cooperation.*

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. *Commencement of a case under this title after recognition of a foreign main proceeding.*

“1529. *Coordination of a case under this title and a foreign proceeding.*

“1530. *Coordination of more than 1 foreign proceeding.*

“1531. Presumption of insolvency based on recognition of a foreign main proceeding.

“1532. Rule of payment in concurrent proceedings.

1 **“§ 1501. Purpose and scope of application**

2 “(a) *The purpose of this chapter is to incorporate the*
3 *Model Law on Cross-Border Insolvency so as to provide ef-*
4 *fective mechanisms for dealing with cases of cross-border in-*
5 *solvency with the objectives of—*

6 “(1) *cooperation between—*

7 “(A) *United States courts, United States*
8 *Trustees, trustees, examiners, debtors, and debt-*
9 *ors in possession; and*

10 “(B) *the courts and other competent au-*
11 *thorities of foreign countries involved in cross-*
12 *border insolvency cases;*

13 “(2) *greater legal certainty for trade and invest-*
14 *ment;*

15 “(3) *fair and efficient administration of cross-*
16 *border insolvencies that protects the interests of all*
17 *creditors, and other interested entities, including the*
18 *debtor;*

19 “(4) *protection and maximization of the value of*
20 *the debtor’s assets; and*

21 “(5) *facilitation of the rescue of financially trou-*
22 *bled businesses, thereby protecting investment and*
23 *preserving employment.*

24 “(b) *This chapter applies if—*

1 “(1) assistance is sought in the United States by
2 a foreign court or a foreign representative in connec-
3 tion with a foreign proceeding;

4 “(2) assistance is sought in a foreign country in
5 connection with a case under this title;

6 “(3) a foreign proceeding and a case under this
7 title with respect to the same debtor are taking place
8 concurrently; or

9 “(4) creditors or other interested persons in a
10 foreign country have an interest in requesting the
11 commencement of, or participating in, a case or pro-
12 ceeding under this title.

13 “(c) This chapter does not apply to—

14 “(1) a proceeding concerning an entity identified
15 by exclusion in subsection 109(b);

16 “(2) an individual, or to an individual and such
17 individual’s spouse, who have debts within the limits
18 specified in section 109(e) and who are citizens of the
19 United States or aliens lawfully admitted for perma-
20 nent residence in the United States; or

21 “(3) an entity subject to a proceeding under the
22 Securities Investor Protection Act of 1970 (84 Stat.
23 1636 et seq.), a stockbroker subject to subchapter III
24 of chapter 7 of this title, or a commodity broker sub-
25 ject to subchapter IV of chapter 7 of this title.

1 “SUBCHAPTER I—GENERAL PROVISIONS

2 “§ 1502. *Definitions*3 “*For the purposes of this chapter, the term—*4 “(1) ‘debtor’ means an entity that is the subject
5 *of a foreign proceeding;*6 “(2) ‘establishment’ means any place of oper-
7 *ations where the debtor carries out a nontransitory*
8 *economic activity;*9 “(3) ‘foreign court’ means a judicial or other au-
10 *thority competent to control or supervise a foreign*
11 *proceeding;*12 “(4) ‘foreign main proceeding’ means a foreign
13 *proceeding taking place in the country where the debt-*
14 *or has the center of its main interests;*15 “(5) ‘foreign nonmain proceeding’ means a for-
16 *oreign proceeding, other than a foreign main pro-*
17 *ceeding, taking place in a country where the debtor*
18 *has an establishment;*19 “(6) ‘trustee’ includes a trustee, a debtor in pos-
20 *session in a case under any chapter of this title, or*
21 *a debtor under chapter 9 of this title; and*22 “(7) ‘within the territorial jurisdiction of the
23 *United States’ when used with reference to property*
24 *of a debtor refers to tangible property located within*
25 *the territory of the United States and intangible*

1 *property deemed under applicable nonbankruptcy law*
2 *to be located within that territory, including any*
3 *property subject to attachment or garnishment that*
4 *may properly be seized or garnished by an action in*
5 *a Federal or State court in the United States.*

6 **“§ 1503. International obligations of the United States**

7 *“To the extent that this chapter conflicts with an obli-*
8 *gation of the United States arising out of any treaty or*
9 *other form of agreement to which it is a party with 1 or*
10 *more other countries, the requirements of the treaty or*
11 *agreement prevail.*

12 **“§ 1504. Commencement of ancillary case**

13 *“A case under this chapter is commenced by the filing*
14 *of a petition for recognition of a foreign proceeding under*
15 *section 1515.*

16 **“§ 1505. Authorization to act in a foreign country**

17 *“A trustee or another entity, including an examiner,*
18 *may be authorized by the court to act in a foreign country*
19 *on behalf of an estate created under section 541. An entity*
20 *authorized to act under this section may act in any way*
21 *permitted by the applicable foreign law.*

22 **“§ 1506. Public policy exception**

23 *“Nothing in this chapter prevents the court from refus-*
24 *ing to take an action governed by this chapter if the action*

1 *would be manifestly contrary to the public policy of the*
2 *United States.*

3 **“§ 1507. Additional assistance**

4 “(a) *Subject to the specific limitations under other*
5 *provisions of this chapter, the court, upon recognition of*
6 *a foreign proceeding, may provide additional assistance to*
7 *a foreign representative under this title or under other laws*
8 *of the United States.*

9 “(b) *In determining whether to provide additional as-*
10 *sistance under this title or under other laws of the United*
11 *States, the court shall consider whether such additional as-*
12 *sistance, consistent with the principles of comity, will rea-*
13 *sonably assure—*

14 “(1) *just treatment of all holders of claims*
15 *against or interests in the debtor’s property;*

16 “(2) *protection of claim holders in the United*
17 *States against prejudice and inconvenience in the*
18 *processing of claims in such foreign proceeding;*

19 “(3) *prevention of preferential or fraudulent dis-*
20 *positions of property of the debtor;*

21 “(4) *distribution of proceeds of the debtor’s prop-*
22 *erty substantially in accordance with the order pre-*
23 *scribed by this title; and*

1 “(5) if appropriate, the provision of an oppor-
2 tunity for a fresh start for the individual that such
3 foreign proceeding concerns.

4 **“§ 1508. Interpretation**

5 *“In interpreting this chapter, the court shall consider*
6 *its international origin, and the need to promote an appli-*
7 *cation of this chapter that is consistent with the application*
8 *of similar statutes adopted by foreign jurisdictions.*

9 “SUBCHAPTER II—ACCESS OF FOREIGN REP-
10 RESENTATIVES AND CREDITORS TO THE
11 COURT

12 **“§ 1509. Right of direct access**

13 “(a) A foreign representative is entitled to commence
14 a case under section 1504 by filing a petition for recogni-
15 tion under section 1515, and upon recognition, to apply
16 directly to other Federal and State courts for appropriate
17 relief in those courts.

18 “(b) Upon recognition, and subject to section 1510, a
19 foreign representative shall have the capacity to sue and
20 be sued, and shall be subject to the laws of the United States
21 of general applicability.

22 “(c) Subject to section 1510, a foreign representative
23 is subject to laws of general application.

24 “(d) Recognition under this chapter is prerequisite to
25 the granting of comity or cooperation to a foreign represent-

1 *ative in any Federal or State court in the United States.*
2 *Any request for comity or cooperation by a foreign rep-*
3 *resentative in any court shall be accompanied by a sworn*
4 *statement setting forth whether recognition under section*
5 *1515 has been sought and the status of any such petition.*

6 *“(e) Upon denial of recognition under this chapter, the*
7 *court may issue appropriate orders necessary to prevent an*
8 *attempt to obtain comity or cooperation from courts in the*
9 *United States without such recognition.*

10 **“§ 1510. Limited jurisdiction**

11 *“The sole fact that a foreign representative files a peti-*
12 *tion under section 1515 does not subject the foreign rep-*
13 *resentative to the jurisdiction of any court in the United*
14 *States for any other purpose.*

15 **“§ 1511. Commencement of case under section 301 or**

16 **303**

17 *“(a) Upon recognition, a foreign representative may*
18 *commence—*

19 *“(1) an involuntary case under section 303; or*

20 *“(2) a voluntary case under section 301 or 302,*
21 *if the foreign proceeding is a foreign main proceeding.*

22 *“(b) The petition commencing a case under subsection*
23 *(a) must be accompanied by a statement describing the peti-*
24 *tion for recognition and its current status. The court where*
25 *the petition for recognition has been filed must be advised*

1 of the foreign representative's intent to commence a case
2 under subsection (a) prior to such commencement.

3 **“§ 1512. Participation of a foreign representative in a**
4 **case under this title**

5 “Upon recognition of a foreign proceeding, the foreign
6 representative in that proceeding is entitled to participate
7 as a party in interest in a case regarding the debtor under
8 this title.

9 **“§ 1513. Access of foreign creditors to a case under**
10 **this title**

11 “(a) Foreign creditors have the same rights regarding
12 the commencement of, and participation in, a case under
13 this title as domestic creditors.

14 “(b)(1) Subsection (a) does not change or codify law
15 in effect on the date of enactment of this chapter as to the
16 priority of claims under section 507 or 726, except that the
17 claim of a foreign creditor under section 507 or 726 shall
18 not be given a lower priority than that of general unsecured
19 claims without priority solely because the holder of such
20 claim is a foreign creditor.

21 “(2)(A) Subsection (a) and paragraph (1) do not
22 change or codify law in effect on the date of enactment of
23 this chapter as to the allowability of foreign revenue claims
24 or other foreign public law claims in a proceeding under
25 this title.

1 “(B) Allowance and priority as to a foreign tax claim
2 or other foreign public law claim shall be governed by any
3 applicable tax treaty of the United States, under the condi-
4 tions and circumstances specified therein.

5 “**§ 1514. Notification to foreign creditors concerning a**
6 **case under this title**

7 “(a) Whenever in a case under this title notice is to
8 be given to creditors generally or to any class or category
9 of creditors, such notice shall also be given to the known
10 creditors generally, or to creditors in the notified class or
11 category, that do not have addresses in the United States.
12 The court may order that appropriate steps be taken with
13 a view to notifying any creditor whose address is not yet
14 known.

15 “(b) Such notification to creditors with foreign ad-
16 dresses described in subsection (a) shall be given individ-
17 ually, unless the court considers that, under the cir-
18 cumstances, some other form of notification would be more
19 appropriate. No letters rogatory or other similar formality
20 is required.

21 “(c) When a notification of commencement of a case
22 is to be given to foreign creditors, the notification shall—

23 “(1) indicate the time period for filing proofs of
24 claim and specify the place for their filing;

1 “(3) in the absence of evidence referred to in
2 paragraphs (1) and (2), any other evidence acceptable
3 to the court of the existence of the foreign proceeding
4 and of the appointment of the foreign representative.

5 “(c) A petition for recognition shall also be accom-
6 panied by a statement identifying all foreign proceedings
7 with respect to the debtor that are known to the foreign rep-
8 resentative.

9 “(d) The documents referred to in paragraphs (1) and
10 (2) of subsection (b) must be translated into English. The
11 court may require a translation into English of additional
12 documents.

13 **“§ 1516. Presumptions concerning recognition**

14 “(a) If the decision or certificate referred to in section
15 1515(b) indicates that the foreign proceeding is a foreign
16 proceeding as defined in section 101 and that the person
17 or body is a foreign representative as defined in section 101,
18 the court is entitled to so presume.

19 “(b) The court is entitled to presume that documents
20 submitted in support of the petition for recognition are au-
21 thentic, whether or not they have been legalized.

22 “(c) In the absence of evidence to the contrary, the
23 debtor’s registered office, or habitual residence in the case
24 of an individual, is presumed to be the center of the debtor’s
25 main interests.

1 **“§ 1517. Order recognizing a foreign proceeding**

2 “(a) Subject to section 1506, after notice and a hearing
3 an order recognizing a foreign proceeding shall be entered
4 if—

5 “(1) the foreign proceeding is a foreign main
6 proceeding or foreign nonmain proceeding within the
7 meaning of section 1502;

8 “(2) the foreign representative applying for rec-
9 ognition is a person or body as defined in section
10 101; and

11 “(3) the petition meets the requirements of sec-
12 tion 1515.

13 “(b) The foreign proceeding shall be recognized—

14 “(1) as a foreign main proceeding if it is taking
15 place in the country where the debtor has the center
16 of its main interests; or

17 “(2) as a foreign nonmain proceeding if the debt-
18 or has an establishment within the meaning of section
19 1502 in the foreign country where the proceeding is
20 pending.

21 “(c) A petition for recognition of a foreign proceeding
22 shall be decided upon at the earliest possible time. Entry
23 of an order recognizing a foreign proceeding shall constitute
24 recognition under this chapter.

25 “(d) The provisions of this subchapter do not prevent
26 modification or termination of recognition if it is shown

1 *that the grounds for granting it were fully or partially lack-*
2 *ing or have ceased to exist, but in considering such action*
3 *the court shall give due weight to possible prejudice to par-*
4 *ties that have relied upon the granting of recognition. The*
5 *case under this chapter may be closed in the manner pre-*
6 *scribed for a case under section 350.*

7 **“§ 1518. Subsequent information**

8 *“After the petition for recognition of the foreign pro-*
9 *ceeding is filed, the foreign representative shall file with the*
10 *court promptly a notice of change of status concerning—*

11 *“(1) any substantial change in the status of the*
12 *foreign proceeding or the status of the foreign rep-*
13 *resentative’s appointment; and*

14 *“(2) any other foreign proceeding regarding the*
15 *debtor that becomes known to the foreign representa-*
16 *tive.*

17 **“§ 1519. Relief that may be granted upon petition for**
18 ***recognition of a foreign proceeding***

19 *“(a) Beginning on the date on which a petition for*
20 *recognition is filed and ending on the date on which the*
21 *petition is decided upon, the court may, at the request of*
22 *the foreign representative, where relief is urgently needed*
23 *to protect the assets of the debtor or the interests of the credi-*
24 *tors, grant relief of a provisional nature, including—*

25 *“(1) staying execution against the debtor’s assets;*

1 “(2) entrusting the administration or realization
2 of all or part of the debtor’s assets located in the
3 United States to the foreign representative or another
4 person authorized by the court, including an exam-
5 iner, in order to protect and preserve the value of as-
6 sets that, by their nature or because of other cir-
7 cumstances, are perishable, susceptible to devaluation,
8 or otherwise in jeopardy; and

9 “(3) any relief referred to in paragraph (3), (4),
10 or (7) of section 1521(a).

11 “(b) Unless extended under section 1521(a)(6), the re-
12 lief granted under this section terminates when the petition
13 for recognition is decided upon.

14 “(c) It is a ground for denial of relief under this sec-
15 tion that such relief would interfere with the administration
16 of a foreign main proceeding.

17 “(d) The court may not enjoin a police or regulatory
18 act of a governmental unit, including a criminal action or
19 proceeding, under this section.

20 “(e) The standards, procedures, and limitations appli-
21 cable to an injunction shall apply to relief under this sec-
22 tion.

1 **“§ 1520. Effects of recognition of a foreign main pro-**
2 **ceeding**

3 *“(a) Upon recognition of a foreign proceeding that is*
4 *a foreign main proceeding—*

5 *“(1) section 362 applies with respect to the debt-*
6 *or and that property of the debtor that is within the*
7 *territorial jurisdiction of the United States;*

8 *“(2) a transfer, an encumbrance, or any other*
9 *disposition of an interest of the debtor in property*
10 *within the territorial jurisdiction of the United States*
11 *is restrained as and to the extent that is provided for*
12 *property of an estate under sections 363, 549, and*
13 *552; and*

14 *“(3) unless the court orders otherwise, the foreign*
15 *representative may operate the debtor’s business and*
16 *may exercise the powers of a trustee under section*
17 *549, subject to sections 363 and 552.*

18 *“(b) The scope, and the modification or termination,*
19 *of the stay and restraints referred to in subsection (a) are*
20 *subject to the exceptions and limitations provided in sub-*
21 *sections (b), (c), and (d) of section 362, subsections (b) and*
22 *(c) of section 363, and sections 552, 555 through 557, 559,*
23 *and 560.*

24 *“(c) Subsection (a) does not affect the right to com-*
25 *mence individual actions or proceedings in a foreign coun-*

1 *try to the extent necessary to preserve a claim against the*
2 *debtor.*

3 “(d) *Subsection (a) does not affect the right of a foreign*
4 *representative or an entity to file a petition commencing*
5 *a case under this title or the right of any party to file*
6 *claims or take other proper actions in such a case.*

7 **“§ 1521. Relief that may be granted upon recognition**
8 **of a foreign proceeding**

9 “(a) *Upon recognition of a foreign proceeding, whether*
10 *main or nonmain, where necessary to effectuate the purpose*
11 *of this chapter and to protect the assets of the debtor or*
12 *the interests of the creditors, the court may, at the request*
13 *of the foreign representative, grant any appropriate relief,*
14 *including—*

15 “(1) *staying the commencement or continuation*
16 *of individual actions or individual proceedings con-*
17 *cerning the debtor’s assets, rights, obligations or li-*
18 *abilities to the extent the actions or proceedings have*
19 *not been stayed under section 1520(a);*

20 “(2) *staying execution against the debtor’s assets*
21 *to the extent the execution has not been stayed under*
22 *section 1520(a);*

23 “(3) *suspending the right to transfer, encumber*
24 *or otherwise dispose of any assets of the debtor to the*

1 *extent that right has not been suspended under section*
2 *1520(a);*

3 *“(4) providing for the examination of witnesses,*
4 *the taking of evidence or the delivery of information*
5 *concerning the debtor’s assets, affairs, rights, obliga-*
6 *tions or liabilities;*

7 *“(5) entrusting the administration or realization*
8 *of all or part of the debtor’s assets within the terri-*
9 *torial jurisdiction of the United States to the foreign*
10 *representative or another person, including an exam-*
11 *iner, authorized by the court;*

12 *“(6) extending relief granted under section*
13 *1519(a); and*

14 *“(7) granting any additional relief that may be*
15 *available to a trustee, except for relief available under*
16 *sections 522, 544, 545, 547, 548, 550, and 724(a).*

17 *“(b) Upon recognition of a foreign proceeding, whether*
18 *main or nonmain, the court may, at the request of the for-*
19 *eign representative, entrust the distribution of all or part*
20 *of the debtor’s assets located in the United States to the for-*
21 *eign representative or another person, including an exam-*
22 *iner, authorized by the court, if the court is satisfied that*
23 *the interests of creditors in the United States are suffi-*
24 *ciently protected.*

1 “(c) *In granting relief under this section to a rep-*
 2 *resentative of a foreign nonmain proceeding, the court must*
 3 *be satisfied that the relief relates to assets that, under the*
 4 *law of the United States, should be administered in the for-*
 5 *ign nonmain proceeding or concerns information required*
 6 *in that proceeding.*

7 “(d) *The court may not enjoin a police or regulatory*
 8 *act of a governmental unit, including a criminal action or*
 9 *proceeding, under this section.*

10 “(e) *The standards, procedures, and limitations appli-*
 11 *cable to an injunction shall apply to relief under para-*
 12 *graphs (1), (2), (3), and (6) of subsection (a).*

13 **“§ 1522. Protection of creditors and other interested**
 14 **persons**

15 “(a) *The court may grant relief under section 1519*
 16 *or 1521, or may modify or terminate relief under subsection*
 17 *(c), only if the interests of the creditors and other interested*
 18 *entities, including the debtor, are sufficiently protected.*

19 “(b) *The court may subject relief granted under section*
 20 *1519 or 1521, or the operation of the debtor’s business under*
 21 *section 1520(a)(2), to conditions that the court considers*
 22 *to be appropriate, including the giving of security or the*
 23 *filing of a bond.*

24 “(c) *The court may, at the request of the foreign rep-*
 25 *resentative or an entity affected by relief granted under sec-*

1 tion 1519 or 1521, or at its own motion, modify or termi-
2 nate the relief referred to in subsection (b).

3 “(d) Section 1104(d) shall apply to the appointment
4 of an examiner under this chapter. Any examiner shall
5 comply with the qualification requirements imposed on a
6 trustee by section 322.

7 **“§ 1523. Actions to avoid acts detrimental to creditors**

8 “(a) Upon recognition of a foreign proceeding, the for-
9 eign representative has standing in a case concerning the
10 debtor pending under another chapter of this title to initiate
11 actions under sections 522, 544, 545, 547, 548, 550, and
12 724(a).

13 “(b) In any case in which the foreign proceeding is
14 a foreign nonmain proceeding, the court must be satisfied
15 that an action under subsection (a) relates to assets that,
16 under United States law, should be administered in the for-
17 eign nonmain proceeding.

18 **“§ 1524. Intervention by a foreign representative**

19 “Upon recognition of a foreign proceeding, the foreign
20 representative may intervene in any proceedings in a State
21 or Federal court in the United States in which the debtor
22 is a party.

1 “SUBCHAPTER IV—COOPERATION WITH FOR-
2 EIGN COURTS AND FOREIGN REPRESENTA-
3 TIVES

4 “§1525. *Cooperation and direct communication be-*
5 *tween the court and foreign courts or for-*
6 *ign representatives*

7 “(a) *Consistent with section 1501, the court shall co-*
8 *operate to the maximum extent possible with foreign courts*
9 *or foreign representatives, either directly or through the*
10 *trustee.*

11 “(b) *The court is entitled to communicate directly*
12 *with, or to request information or assistance directly from,*
13 *foreign courts or foreign representatives, subject to the rights*
14 *of parties in interest to notice and participation.*

15 “§1526. *Cooperation and direct communication be-*
16 *tween the trustee and foreign courts or*
17 *foreign representatives*

18 “(a) *Consistent with section 1501, the trustee or other*
19 *person, including an examiner, authorized by the court,*
20 *shall, subject to the supervision of the court, cooperate to*
21 *the maximum extent possible with foreign courts or foreign*
22 *representatives.*

23 “(b) *The trustee or other person, including an exam-*
24 *iner, authorized by the court is entitled, subject to the super-*

1 *vision of the court, to communicate directly with foreign*
2 *courts or foreign representatives.*

3 **“§ 1527. Forms of cooperation**

4 *“Cooperation referred to in sections 1525 and 1526*
5 *may be implemented by any appropriate means,*
6 *including—*

7 *“(1) appointment of a person or body, including*
8 *an examiner, to act at the direction of the court;*

9 *“(2) communication of information by any*
10 *means considered appropriate by the court;*

11 *“(3) coordination of the administration and su-*
12 *per vision of the debtor’s assets and affairs;*

13 *“(4) approval or implementation of agreements*
14 *concerning the coordination of proceedings; and*

15 *“(5) coordination of concurrent proceedings re-*
16 *garding the same debtor.*

17 **“SUBCHAPTER V—CONCURRENT PROCEEDINGS**

18 **“§ 1528. Commencement of a case under this title after**
19 ***recognition of a foreign main proceeding***

20 *“After recognition of a foreign main proceeding, a case*
21 *under another chapter of this title may be commenced only*
22 *if the debtor has assets in the United States. The effects of*
23 *such case shall be restricted to the assets of the debtor that*
24 *are within the territorial jurisdiction of the United States*
25 *and, to the extent necessary to implement cooperation and*

1 coordination under sections 1525, 1526, and 1527, to other
2 assets of the debtor that are within the jurisdiction of the
3 court under sections 541(a), and 1334(e) of title 28, to the
4 extent that such other assets are not subject to the jurisdic-
5 tion and control of a foreign proceeding that has been recog-
6 nized under this chapter.

7 **“§ 1529. Coordination of a case under this title and a**
8 **foreign proceeding**

9 “In any case in which a foreign proceeding and a case
10 under another chapter of this title are taking place concur-
11 rently regarding the same debtor, the court shall seek co-
12 operation and coordination under sections 1525, 1526, and
13 1527, and the following shall apply:

14 “(1) If the case in the United States is taking
15 place at the time the petition for recognition of the
16 foreign proceeding is filed—

17 “(A) any relief granted under sections 1519
18 or 1521 must be consistent with the relief grant-
19 ed in the case in the United States; and

20 “(B) even if the foreign proceeding is recog-
21 nized as a foreign main proceeding, section 1520
22 does not apply.

23 “(2) If a case in the United States under this
24 title commences after recognition, or after the filing of

1 *the petition for recognition, of the foreign*
2 *proceeding—*

3 “(A) *any relief in effect under sections 1519*
4 *or 1521 shall be reviewed by the court and shall*
5 *be modified or terminated if inconsistent with*
6 *the case in the United States; and*

7 “(B) *if the foreign proceeding is a foreign*
8 *main proceeding, the stay and suspension re-*
9 *ferred to in section 1520(a) shall be modified or*
10 *terminated if inconsistent with the relief granted*
11 *in the case in the United States.*

12 “(3) *In granting, extending, or modifying relief*
13 *granted to a representative of a foreign nonmain pro-*
14 *ceeding, the court must be satisfied that the relief re-*
15 *lates to assets that, under the law of the United*
16 *States, should be administered in the foreign nonmain*
17 *proceeding or concerns information required in that*
18 *proceeding.*

19 “(4) *In achieving cooperation and coordination*
20 *under sections 1528 and 1529, the court may grant*
21 *any of the relief authorized under section 305.*

22 **“§ 1530. Coordination of more than 1 foreign pro-**
23 **ceeding**

24 *“In matters referred to in section 1501, with respect*
25 *to more than 1 foreign proceeding regarding the debtor, the*

1 *court shall seek cooperation and coordination under sections*
2 *1525, 1526, and 1527, and the following shall apply:*

3 “(1) *Any relief granted under section 1519 or*
4 *1521 to a representative of a foreign nonmain pro-*
5 *ceeding after recognition of a foreign main proceeding*
6 *must be consistent with the foreign main proceeding.*

7 “(2) *If a foreign main proceeding is recognized*
8 *after recognition, or after the filing of a petition for*
9 *recognition, of a foreign nonmain proceeding, any re-*
10 *lief in effect under section 1519 or 1521 shall be re-*
11 *viewed by the court and shall be modified or termi-*
12 *nated if inconsistent with the foreign main pro-*
13 *ceeding.*

14 “(3) *If, after recognition of a foreign nonmain*
15 *proceeding, another foreign nonmain proceeding is*
16 *recognized, the court shall grant, modify, or terminate*
17 *relief for the purpose of facilitating coordination of*
18 *the proceedings.*

19 **“§ 1531. *Presumption of insolvency based on recogni-***
20 ***tion of a foreign main proceeding***

21 “*In the absence of evidence to the contrary, recognition*
22 *of a foreign main proceeding is for the purpose of com-*
23 *mencing a proceeding under section 303, proof that the*
24 *debtor is generally not paying its debts as such debts become*
25 *due.*

1 **“§ 1532. Rule of payment in concurrent proceedings**

2 *“Without prejudice to secured claims or rights in rem,*
 3 *a creditor who has received payment with respect to its*
 4 *claim in a foreign proceeding pursuant to a law relating*
 5 *to insolvency may not receive a payment for the same claim*
 6 *in a case under any other chapter of this title regarding*
 7 *the debtor, so long as the payment to other creditors of the*
 8 *same class is proportionately less than the payment the*
 9 *creditor has already received.”.*

10 **(b) CLERICAL AMENDMENT.**—*The table of chapters for*
 11 *title 11, United States Code, is amended by inserting after*
 12 *the item relating to chapter 13 the following:*

“15. Ancillary and Other Cross-Border Cases 1501”.

13 **SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
 14 **UNITED STATES CODE.**

15 **(a) APPLICABILITY OF CHAPTERS.**—*Section 103 of*
 16 *title 11, United States Code, is amended—*

17 **(1)** *in subsection (a), by inserting before the pe-*
 18 *riod the following: “, and this chapter, sections 307,*
 19 *304, 555 through 557, 559, and 560 apply in a case*
 20 *under chapter 15”;* and

21 **(2)** *by adding at the end the following:*

22 **“(j)** *Chapter 15 applies only in a case under such*
 23 *chapter, except that—*

24 **“(1)** *sections 1513 and 1514 apply in all cases*
 25 *under this title; and*

1 “(2) section 1505 applies to trustees and to any
2 other entity (including an examiner) authorized by
3 the court under chapter 7, 11, or 12, to debtors in
4 possession under chapter 11 or 12, and to debtors
5 under chapter 9 who are authorized to act under sec-
6 tion 1505.”.

7 (b) *DEFINITIONS.*—Paragraphs (23) and (24) of sec-
8 tion 101 of title 11, United States Code, are amended to
9 read as follows:

10 “(23) ‘foreign proceeding’ means a collective ju-
11 dicial or administrative proceeding in a foreign coun-
12 try, including an interim proceeding, pursuant to a
13 law relating to insolvency in which proceeding the as-
14 sets and affairs of the debtor are subject to control or
15 supervision by a foreign court, for the purpose of reor-
16 ganization or liquidation;

17 “(24) ‘foreign representative’ means a person or
18 body, including a person or body appointed on an in-
19 terim basis, authorized in a foreign proceeding to ad-
20 minister the reorganization or the liquidation of the
21 debtor’s assets or affairs or to act as a representative
22 of the foreign proceeding;”.

23 (c) *AMENDMENTS TO TITLE 28, UNITED STATES*
24 *CODE.*—

1 (1) *PROCEDURES*.—Section 157(b)(2) of title 28,
2 *United States Code*, is amended—

3 (A) in subparagraph (N), by striking “and”
4 at the end;

5 (B) in subparagraph (O), by striking the
6 period at the end and inserting “; and”; and

7 (C) by adding at the end the following:

8 “(P) recognition of foreign proceedings and other
9 matters under chapter 15 of title 11.”.

10 (2) *BANKRUPTCY CASES AND PROCEEDINGS*.—
11 Section 1334(c)(1) of title 28, *United States Code*, is
12 amended by striking “Nothing in” and inserting “Ex-
13 cept with respect to a case under chapter 15 of title
14 11, nothing in”.

15 (3) *DUTIES OF TRUSTEES*.—Section 586(a)(3) of
16 title 28, *United States Code*, is amended by inserting
17 “15,” after “chapter”.

18 **SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN**
19 **CASES ANCILLARY TO FOREIGN PRO-**
20 **CEEDINGS.**

21 Section 304 of title 11, *United States Code*, is amended
22 to read as follows:

23 **“§ 304. Cases ancillary to foreign proceedings**

24 “(a) For purposes of this section—

1 “(1) the term ‘domestic insurance company’
2 means a domestic insurance company, as such term
3 is used in section 109(b)(2);

4 “(2) the term ‘foreign insurance company’ means
5 a foreign insurance company, as such term is used in
6 section 109(b)(3);

7 “(3) the term ‘United States claimant’ means a
8 beneficiary of any deposit referred to in subsection (b)
9 or any multibeneficiary trust referred to in subsection
10 (b);

11 “(4) the term ‘United States creditor’ means,
12 with respect to a foreign insurance company—

13 “(i) a United States claimant; or

14 “(ii) any business entity that operates in
15 the United States and that is a creditor; and

16 “(5) the term ‘United States policyholder’ means
17 a holder of an insurance policy issued in the United
18 States.

19 “(b) The court may not grant relief under chapter 15
20 of this title with respect to any deposit, escrow, trust fund,
21 or other security required or permitted under any applica-
22 ble State insurance law or regulation for the benefit of
23 claim holders in the United States.”.

1 **TITLE IX—FINANCIAL CONTRACT**
2 **PROVISIONS**

3 **SEC. 901. BANKRUPTCY CODE AMENDMENTS.**

4 (a) *DEFINITIONS OF FORWARD CONTRACT, REPUR-*
5 *CHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP*
6 *AGREEMENT, COMMODITY CONTRACT, AND SECURITIES*
7 *CONTRACT.—Title 11, United States Code, is amended—*

8 (1) *in section 101—*

9 (A) *in paragraph (25)—*

10 (i) *by striking “means a contract” and*
11 *inserting “means—*
12 *“(A) a contract”;*

13 (ii) *by striking “, or any combination*
14 *thereof or option thereon;” and inserting “,*
15 *or any other similar agreement;”; and*

16 (iii) *by adding at the end the fol-*
17 *lowing:*

18 “(B) *a combination of agreements or trans-*
19 *actions referred to in subparagraphs (A) and*
20 *(C);*

21 “(C) *an option to enter into an agreement*
22 *or transaction referred to in subparagraph (A)*
23 *or (B);*

24 “(D) *a master netting agreement that pro-*
25 *vides for an agreement or transaction referred to*

1 in subparagraph (A), (B), or (C), together with
2 all supplements to such master netting agree-
3 ment, without regard to whether such master net-
4 ting agreement provides for an agreement or
5 transaction that is not a forward contract under
6 this paragraph, except that such master netting
7 agreement shall be considered to be a forward
8 contract under this paragraph only with respect
9 to each agreement or transaction under such
10 master netting agreement that is referred to in
11 subparagraph (A), (B) or (C); or

12 “(E) a security agreement or arrangement,
13 or other credit enhancement, directly pertaining
14 to a contract, option, agreement, or transaction
15 referred to in subparagraph (A), (B), (C), or
16 (D), but not to exceed the actual value of such
17 contract, option, agreement, or transaction on
18 the date of the filing of the petition;”;

19 (B) by striking paragraph (47) and insert-
20 ing the following:

21 “(47) ‘repurchase agreement’ and ‘reverse repur-
22 chase agreement’—

23 “(A) mean—

24 “(i) an agreement, including related
25 terms, which provides for the transfer of—

1 “(I) a certificate of deposit, mort-
2 gage related security (as defined in sec-
3 tion 3 of the Securities Exchange Act
4 of 1934), mortgage loan, interest in a
5 mortgage related security or mortgage
6 loan, eligible bankers’ acceptance, or
7 qualified foreign government security
8 (defined for purposes of this paragraph
9 to mean a security that is a direct ob-
10 ligation of, or that is fully guaranteed
11 by, the central government of a mem-
12 ber of the Organization for Economic
13 Cooperation and Development); or

14 “(II) a security that is a direct
15 obligation of, or that is fully guaran-
16 teed by, the United States or an agency
17 of the United States against the trans-
18 fer of funds by the transferee of such
19 certificate of deposit, eligible bankers’
20 acceptance, security, loan, or interest;
21 with a simultaneous agreement by such
22 transferee to transfer to the transferor there-
23 of a certificate of deposit, eligible bankers’
24 acceptance, security, loan, or interest of the
25 kind described in subclause (I) or (II), at a

1 *date certain that is not later than 1 year*
2 *after the date of the transferor's transfer or*
3 *on demand, against the transfer of funds;*

4 *“(ii) a combination of agreements or*
5 *transactions referred to in clauses (i) and*
6 *(iii);*

7 *“(iii) an option to enter into an agree-*
8 *ment or transaction referred to in clause (i)*
9 *or (ii); or*

10 *“(iv) a master netting agreement that*
11 *provides for an agreement or transaction re-*
12 *ferred to in clause (i), (ii), or (iii), together*
13 *with all supplements to such master netting*
14 *agreement, without regard to whether such*
15 *master netting agreement provides for an*
16 *agreement or transaction that is not a re-*
17 *purchase agreement under this subpara-*
18 *graph, except that such master netting*
19 *agreement shall be considered to be a repur-*
20 *chase agreement under this subparagraph*
21 *only with respect to each agreement or*
22 *transaction under such master netting*
23 *agreement that is referred to in clause (i),*
24 *(ii), or (iii); or*

1 “(v) a security agreement or arrange-
2 ment, or other credit enhancement, directly
3 pertaining to a contract referred to in
4 clause (i), (ii), (iii), or (iv), but not to ex-
5 ceed the actual value of such contract on the
6 date of the filing of the petition; and

7 “(B) do not include a repurchase obligation
8 under a participation in a commercial mortgage
9 loan;”;

10 (C) in paragraph (48) by inserting “, or ex-
11 empt from such registration under such section
12 pursuant to an order of the Securities and Ex-
13 change Commission” after “1934”; and

14 (D) by striking paragraph (53B) and in-
15 serting the following:

16 “(53B) ‘swap agreement’—

17 “(A) means—

18 “(i) an agreement, including the terms
19 and conditions incorporated by reference in
20 such agreement, that is—

21 “(I) an interest rate swap, option,
22 future, or forward agreement, includ-
23 ing a rate floor, rate cap, rate collar,
24 cross-currency rate swap, and basis
25 swap;

1 “(II) a spot, same day-tomorrow,
2 tomorrow-next, forward, or other for-
3 eign exchange or precious metals agree-
4 ment;

5 “(III) a currency swap, option,
6 future, or forward agreement;

7 “(IV) an equity index or an eq-
8 uity swap, option, future, or forward
9 agreement;

10 “(V) a debt index or a debt swap,
11 option, future, or forward agreement;

12 “(VI) a credit spread or a credit
13 swap, option, future, or forward agree-
14 ment; or

15 “(VII) a commodity index or a
16 commodity swap, option, future, or
17 forward agreement;

18 “(ii) an agreement or transaction that
19 is similar to an agreement or transaction
20 referred to in clause (i) that—

21 “(I) is currently, or in the future
22 becomes, regularly entered into in the
23 swap market (including terms and
24 conditions incorporated by reference
25 therein); and

1 “(II) is a forward, swap, future,
2 or option on a rate, currency, com-
3 modity, equity security, or other equity
4 instrument, on a debt security or other
5 debt instrument, or on an economic
6 index or measure of economic risk or
7 value;

8 “(iii) a combination of agreements or
9 transactions referred to in clauses (i) and
10 (ii);

11 “(iv) an option to enter into an agree-
12 ment or transaction referred to in this sub-
13 paragraph;

14 “(v) a master netting agreement that
15 provides for an agreement or transaction re-
16 ferred to in clause (i), (ii), (iii), or (iv), to-
17 gether with all supplements to such master
18 netting agreement and without regard to
19 whether such master netting agreement con-
20 tains an agreement or transaction described
21 in any such clause, but only with respect to
22 each agreement or transaction referred to in
23 any such clause that is under such master
24 netting agreement; except that

1 “(B) the definition under subparagraph (A)
2 is applicable for purposes of this title only, and
3 shall not be construed or applied so as to chal-
4 lenge or affect the characterization, definition, or
5 treatment of any swap agreement under any
6 other statute, regulation, or rule, including the
7 Securities Act of 1933, the Securities Exchange
8 Act of 1934, the Public Utility Holding Com-
9 pany Act of 1935, the Trust Indenture Act of
10 1939, the Investment Company Act of 1940, the
11 Investment Advisers Act of 1940, the Securities
12 Investor Protection Act of 1970, the Commodity
13 Exchange Act, and the regulations prescribed by
14 the Securities and Exchange Commission or the
15 Commodity Futures Trading Commission.”;

16 (2) in section 741, by striking paragraph (7)
17 and inserting the following:

18 “(7) ‘securities contract’—

19 “(A) means—

20 “(i) a contract for the purchase, sale,
21 or loan of a security, a mortgage loan or an
22 interest in a mortgage loan, a group or
23 index of securities, or mortgage loans or in-
24 terests therein (including an interest therein
25 or based on the value thereof), or option on

1 *any of the foregoing, including an option to*
2 *purchase or sell any of the foregoing;*

3 “(ii) *an option entered into on a na-*
4 *tional securities exchange relating to foreign*
5 *currencies;*

6 “(iii) *the guarantee by or to a securi-*
7 *ties clearing agency of a settlement of cash,*
8 *securities, mortgage loans or interests there-*
9 *in, group or index of securities, or mortgage*
10 *loans or interests therein (including any in-*
11 *terest therein or based on the value thereof),*
12 *or option on any of the foregoing, including*
13 *an option to purchase or sell any of the*
14 *foregoing;*

15 “(iv) *a margin loan;*

16 “(v) *any other agreement or trans-*
17 *action that is similar to an agreement or*
18 *transaction referred to in this subpara-*
19 *graph;*

20 “(vi) *a combination of the agreements*
21 *or transactions referred to in this subpara-*
22 *graph;*

23 “(vii) *an option to enter into an agree-*
24 *ment or transaction referred to in this sub-*
25 *paragraph;*

1 “(viii) a master netting agreement that
2 provides for an agreement or transaction re-
3 ferred to in clause (i), (ii), (iii), (iv), (v),
4 (vi), or (vii), together with all supplements
5 to such master netting agreement, without
6 regard to whether such master netting
7 agreement provides for an agreement or
8 transaction that is not a securities contract
9 under this subparagraph, except that such
10 master netting agreement shall be consid-
11 ered to be a securities contract under this
12 subparagraph only with respect to each
13 agreement or transaction under such master
14 netting agreement that is referred to in
15 clause (i), (ii), (iii), (iv), (v), (vi), or (vii);
16 or

17 “(ix) a security agreement or arrange-
18 ment, or other credit enhancement, directly
19 pertaining to a contract referred to in this
20 subparagraph, but not to exceed the actual
21 value of such contract on the date of the fil-
22 ing of the petition; and

23 “(B) does not include a purchase, sale, or
24 repurchase obligation under a participation in a
25 commercial mortgage loan;” and

1 (3) in section 761(4)—

2 (A) by striking “or” at the end of subpara-
3 graph (D); and

4 (B) by adding at the end the following:

5 “(F) any other agreement or transaction
6 that is similar to an agreement or transaction
7 referred to in this paragraph;

8 “(G) a combination of the agreements or
9 transactions referred to in this paragraph;

10 “(H) an option to enter into an agreement
11 or transaction referred to in this paragraph;

12 “(I) a master netting agreement that pro-
13 vides for an agreement or transaction referred to
14 in subparagraph (A), (B), (C), (D), (E), (F),
15 (G), or (H), together with all supplements to
16 such master netting agreement, without regard to
17 whether such master netting agreement provides
18 for an agreement or transaction that is not a
19 commodity contract under this paragraph, ex-
20 cept that such master netting agreement shall be
21 considered to be a commodity contract under this
22 paragraph only with respect to each agreement
23 or transaction under such master netting agree-
24 ment that is referred to in subparagraph (A),
25 (B), (C), (D), (E), (F), (G), or (H); or

1 “(J) a security agreement or arrangement,
2 or other credit enhancement, directly pertaining
3 to a contract referred to in this paragraph, but
4 not to exceed the actual value of such contract on
5 the date of the filing of the petition.”.

6 (b) *DEFINITIONS OF FINANCIAL INSTITUTION, FINAN-*
7 *CIAL PARTICIPANT, AND FORWARD CONTRACT MER-*
8 *CHANT.*—Section 101 of title 11, United States Code, as
9 amended by section 802(b) of this Act, is amended—

10 (1) by striking paragraph (22) and inserting the
11 following:

12 “(22) ‘financial institution’ means—

13 “(A)(i) a Federal reserve bank, or an entity
14 that is a commercial or savings bank, industrial
15 savings bank, savings and loan association, trust
16 company, or receiver or conservator for such en-
17 tity; and

18 “(ii) if such Federal reserve bank, receiver,
19 or conservator or entity is acting as agent or
20 custodian for a customer in connection with a
21 securities contract, as defined in section 741,
22 such customer; or

23 “(B) in connection with a securities con-
24 tract, as defined in section 741 of this title, an

1 *investment company registered under the Invest-*
2 *ment Company Act of 1940;”;*

3 *(2) by inserting after paragraph (22) the fol-*
4 *lowing:*

5 *“(22A) ‘financial participant’ means an entity*
6 *that is a party to a securities contract, commodity*
7 *contract or forward contract, or on the date of the fil-*
8 *ing of the petition, has a commodity contract (as de-*
9 *defined in section 761) with the debtor or any other en-*
10 *tity (other than an affiliate) of a total gross dollar*
11 *value of not less than \$1,000,000,000 in notional or*
12 *actual principal amount outstanding on any day*
13 *during the previous 15-month period, or has gross*
14 *mark-to-market positions of not less than*
15 *\$100,000,000 (aggregated across counterparties) in*
16 *any such agreement or transaction with the debtor or*
17 *any other entity (other than an affiliate) on any day*
18 *during the previous 15-month period;”;* and

19 *(3) by striking paragraph (26) and inserting the*
20 *following:*

21 *“(26) ‘forward contract merchant’ means a Fed-*
22 *eral reserve bank, or an entity, the business of which*
23 *consists in whole or in part of entering into forward*
24 *contracts as or with merchants or in a commodity, as*
25 *defined or in section 761, or any similar good, article,*

1 *service, right, or interest that is presently or in the*
2 *future becomes the subject of dealing or in the forward*
3 *contract trade;”.*

4 (c) *DEFINITION OF MASTER NETTING AGREEMENT*
5 *AND MASTER NETTING AGREEMENT PARTICIPANT.*—*Sec-*
6 *tion 101 of title 11, United States Code, as amended by*
7 *subsection (b) of this section, is amended by inserting after*
8 *paragraph (38) the following new paragraphs:*

9 “(38A) *the term ‘master netting agreement’—*

10 “(A) *means an agreement providing for the*
11 *exercise of rights, including rights of netting,*
12 *setoff, liquidation, termination, acceleration, or*
13 *closeout, under or in connection with 1 or more*
14 *contracts that are described in any 1 or more of*
15 *paragraphs (1) through (5) of section 561(a), or*
16 *any security agreement or arrangement or other*
17 *credit enhancement related to 1 or more of the*
18 *foregoing; except that*

19 “(B) *if a master netting agreement contains*
20 *provisions relating to agreements or transactions*
21 *that are not contracts described in paragraphs*
22 *(1) through (5) of section 561(a), the master net-*
23 *ting agreement shall be deemed to be a master*
24 *netting agreement only with respect to those*
25 *agreements or transactions that are described in*

1 any 1 or more of the paragraphs (1) through (5)
2 of section 561(a);

3 “(38B) the term ‘master netting agreement par-
4 ticipant’ means an entity that, at any time before the
5 filing of the petition, is a party to an outstanding
6 master netting agreement with the debtor;”.

7 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
8 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-
9 CHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS
10 UNDER THE AUTOMATIC STAY.—

11 (1) IN GENERAL.—Section 362(b) of title 11,
12 United States Code, as amended by section 718 of this
13 Act, is amended—

14 (A) in paragraph (6), by inserting “,
15 pledged to, and under the control of,” after “held
16 by”;

17 (B) in paragraph (7), by inserting “,
18 pledged to, and under the control of,” after “held
19 by”;

20 (C) by striking paragraph (17) and insert-
21 ing the following:

22 “(17) under subsection (a), of the setoff by a
23 swap participant of a mutual debt and claim under
24 or in connection with a swap agreement that con-
25 stitutes the setoff of a claim against the debtor for a

1 *payment or transfer due from the debtor under or in*
2 *connection with a swap agreement against a payment*
3 *due to the debtor from the swap participant under or*
4 *in connection with a swap agreement or against cash,*
5 *securities, or other property held by, pledged to, and*
6 *under the control of, or due from such swap partici-*
7 *part to guarantee, secure, or settle a swap agree-*
8 *ment;”;*

9 *(D) in paragraph (26), by striking “or” at*
10 *the end;*

11 *(E) in paragraph (27), by striking the pe-*
12 *riod at the end and inserting “; or”; and*

13 *(F) by inserting after paragraph (27) the*
14 *following:*

15 *“(28) under subsection (a), of the setoff by a*
16 *master netting agreement participant of a mutual*
17 *debt and claim under or in connection with 1 or more*
18 *master netting agreements or any contract or agree-*
19 *ment subject to such agreements that constitutes the*
20 *setoff of a claim against the debtor for any payment*
21 *or other transfer of property due from the debtor*
22 *under or in connection with such agreements or any*
23 *contract or agreement subject to such agreements*
24 *against any payment due to the debtor from such*
25 *master netting agreement participant under or in*

1 *connection with such agreements or any contract or*
2 *agreement subject to such agreements or against cash,*
3 *securities, or other property held by, pledged or and*
4 *under the control of, or due from such master netting*
5 *agreement participant to margin, guarantee, secure,*
6 *or settle such agreements or any contract or agree-*
7 *ment subject to such agreements, to the extent such*
8 *participant is eligible to exercise such offset rights*
9 *under paragraph (6), (7), or (17) for each individual*
10 *contract covered by the master netting agreement in*
11 *issue.”.*

12 (2) *LIMITATION.*—*Section 362 of title 11, United*
13 *States Code, as amended by section 441(2) of this Act,*
14 *is amended by adding at the end the following:*

15 “(1) *LIMITATION.*—*The exercise of rights not subject to*
16 *the stay arising under subsection (a) pursuant to para-*
17 *graph (6), (7), or (17) of subsection (b) shall not be stayed*
18 *by an order of a court or administrative agency in any*
19 *proceeding under this title.”.*

20 (e) *LIMITATION OF AVOIDANCE POWERS UNDER MAS-*
21 *TER NETTING AGREEMENT.*—*Section 546 of title 11, United*
22 *States Code, is amended—*

23 (1) *in subsection (g) (as added by section 103 of*
24 *Public Law 101–311 (104 Stat. 267 et seq.))—*

1 (A) by striking “under a swap agreement”;

2 and

3 (B) by striking “in connection with a swap
4 agreement” and inserting “under or in connec-
5 tion with any swap agreement”; and

6 (2) by inserting before subsection (i) (as redesign-
7 ated by section 407 of this Act) the following new
8 subsection:

9 “(h) Notwithstanding sections 544, 545, 547,
10 548(a)(2)(B), and 548(b), the trustee may not avoid a
11 transfer made by or to a master netting agreement partici-
12 pant under or in connection with any master netting agree-
13 ment or any individual contract covered thereby that is
14 made before the commencement of the case, and except to
15 the extent that the trustee could otherwise avoid such a
16 transfer made under an individual contract covered by such
17 master netting agreement (except under section
18 548(a)(1)(A)).”.

19 (f) *FRAUDULENT TRANSFERS OF MASTER NETTING*
20 *AGREEMENTS*.—Section 548(d)(2) of title 11, United States
21 Code, is amended—

22 (1) in subparagraph (C), by striking “and”;

23 (2) in subparagraph (D), by striking the period
24 at the end and inserting “; and”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(E) a master netting agreement partici-
4 pant that receives a transfer in connection with
5 a master netting agreement or any individual
6 contract covered thereby takes for value to the ex-
7 tent of such transfer, except, with respect to a
8 transfer under any individual contract covered
9 thereby, to the extent that such master netting
10 agreement participant otherwise did not take (or
11 is otherwise not deemed to have taken) such
12 transfer for value.”.

13 (g) *TERMINATION OR ACCELERATION OF SECURITIES*
14 *CONTRACTS.*—Section 555 of title 11, United States Code,
15 is amended—

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

18 **“§555. Contractual right to liquidate, terminate, or**
19 **accelerate a securities contract”;**

20 and

21 (2) in the first sentence, by striking “liquida-
22 tion” and inserting “liquidation, termination, or ac-
23 celeration”.

1 (h) *TERMINATION OR ACCELERATION OF COMMOD-*
2 *ITIES OR FORWARD CONTRACTS.*—Section 556 of title 11,
3 *United States Code, is amended—*

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

6 **“§556. Contractual right to liquidate, terminate, or**
7 **accelerate a commodities contract or for-**
8 **ward contract”;**

9 *and*

10 (2) *in the first sentence, by striking “liquida-*
11 *tion” and inserting “liquidation, termination, or ac-*
12 *celeration”.*

13 (i) *TERMINATION OR ACCELERATION OF REPURCHASE*
14 *AGREEMENTS.*—Section 559 of title 11, *United States Code,*
15 *is amended—*

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

18 **“§559. Contractual right to liquidate, terminate, or**
19 **accelerate a repurchase agreement”;**

20 *and*

21 (2) *in the first sentence, by striking “liquida-*
22 *tion” and inserting “liquidation, termination, or ac-*
23 *celeration”.*

1 (j) *LIQUIDATION, TERMINATION, OR ACCELERATION OF*
2 *SWAP AGREEMENTS.*—Section 560 of title 11, United States
3 Code, is amended—

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

6 **“§560. Contractual right to liquidate, terminate, or**
7 **accelerate a swap agreement”;**

8 (2) in the first sentence, by striking “termi-
9 nation of a swap agreement” and inserting “liquida-
10 tion, termination, or acceleration of a swap agree-
11 ment”; and

12 (3) by striking “in connection with any swap
13 agreement” and inserting “in connection with the ter-
14 mination, liquidation, or acceleration of a swap
15 agreement”.

16 (k) *LIQUIDATION, TERMINATION, ACCELERATION, OR*
17 *OFFSET UNDER A MASTER NETTING AGREEMENT AND*
18 *ACROSS CONTRACTS.*—Title 11, United States Code, is
19 amended by inserting after section 560 the following:

20 **“§561. Contractual right to terminate, liquidate, ac-**
21 **celerate, or offset under a master netting**
22 **agreement and across contracts**

23 “(a) Subject to subsection (b), the exercise of any con-
24 tractual right, because of a condition of the kind specified
25 in section 365(e)(1), to cause the termination, liquidation,

1 *or acceleration of or to offset or net termination values, pay-*
2 *ment amounts or other transfer obligations arising under*
3 *or in connection with 1 or more (or the termination, liq-*
4 *uidation, or acceleration of 1 or more)—*

5 “(1) *securities contracts, as defined in section*
6 741(7);

7 “(2) *commodity contracts, as defined in section*
8 761(4);

9 “(3) *forward contracts;*

10 “(4) *repurchase agreements;*

11 “(5) *swap agreements; or*

12 “(6) *master netting agreements,*

13 *shall not be stayed, avoided, or otherwise limited by oper-*
14 *ation of any provision of this title or by any order of a*
15 *court or administrative agency in any proceeding under*
16 *this title.*

17 “(b)(1) *A party may exercise a contractual right de-*
18 *scribed in subsection (a) to terminate, liquidate, or accel-*
19 *erate only to the extent that such party could exercise such*
20 *a right under section 555, 556, 559, or 560 for each indi-*
21 *vidual contract covered by the master netting agreement in*
22 *issue.*

23 “(2) *If a debtor is a commodity broker subject to sub-*
24 *chapter IV of chapter 7—*

1 “(A) a party may not net or offset an obligation
2 to the debtor arising under, or in connection with, a
3 commodity contract against any claim arising under,
4 or in connection with, other instruments, contracts, or
5 agreements listed in subsection (a), except to the ex-
6 tent that the party has positive net equity in the com-
7 modity accounts at the debtor, as calculated under
8 such subchapter IV; and

9 “(B) another commodity broker may not net or
10 offset an obligation to the debtor arising under, or in
11 connection with, a commodity contract entered into
12 or held on behalf of a customer of the debtor against
13 any claim arising under, or in connection with, other
14 instruments, contracts, or agreements referred to in
15 subsection (a).

16 “(c) As used in this section, the term ‘contractual
17 right’ includes a right set forth in a rule or bylaw of a
18 national securities exchange, a national securities associa-
19 tion, or a securities clearing agency, a right set forth in
20 a bylaw of a clearing organization or contract market or
21 in a resolution of the governing board thereof, and a right,
22 whether or not evidenced in writing, arising under common
23 law, under law merchant, or by reason of normal business
24 practice.”.

1 (l) *ANCILLARY PROCEEDINGS.*—Section 304 of title 11,
2 *United States Code*, is amended by adding at the end the
3 *following*:

4 “(d) *Any provisions of this title relating to securities*
5 *contracts, commodity contracts, forward contracts, repur-*
6 *chase agreements, swap agreements, or master netting*
7 *agreements shall apply in a case ancillary to a foreign pro-*
8 *ceeding under this section or any other section of this title,*
9 *so that enforcement of contractual provisions of such con-*
10 *tracts and agreements in accordance with their terms—*

11 “(1) *shall not be stayed or otherwise limited*
12 *by—*

13 “(A) *operation of any provision of this title;*

14 *or*

15 “(B) *order of a court in any case under this*
16 *title;*

17 “(2) *shall limit avoidance powers to the same ex-*
18 *tent as in a proceeding under chapter 7 or 11; and*

19 “(3) *shall not be limited based on the presence*
20 *or absence of assets of the debtor in the United*
21 *States.”.*

22 (m) *COMMODITY BROKER LIQUIDATIONS.*—Title 11,
23 *United States Code*, is amended by inserting after section
24 766 the *following*:

1 **“§ 767. Commodity broker liquidation and forward**
2 **contract merchants, commodity brokers,**
3 **stockbrokers, financial institutions, secu-**
4 **rities clearing agencies, swap partici-**
5 **pants, repo participants, and master net-**
6 **ting agreement participants**

7 *“Notwithstanding any other provision of this title, the*
8 *exercise of rights by a forward contract merchant, com-*
9 *modity broker, stockbroker, financial institution, securities*
10 *clearing agency, swap participant, repo participant, or*
11 *master netting agreement participant under this title shall*
12 *not affect the priority of any unsecured claim it may have*
13 *after the exercise of such rights.”.*

14 *(n) STOCKBROKER LIQUIDATIONS.—Title 11, United*
15 *States Code, is amended by inserting after section 752 the*
16 *following:*

17 **“§ 753. Stockbroker liquidation and forward contract**
18 **merchants, commodity brokers, stock-**
19 **brokers, financial institutions, securities**
20 **clearing agencies, swap participants, repo**
21 **participants, and master netting agree-**
22 **ment participants**

23 *“Notwithstanding any other provision of this title, the*
24 *exercise of rights by a forward contract merchant, com-*
25 *modity broker, stockbroker, financial institution, securities*
26 *clearing agency, swap participant, repo participant, finan-*

1 *cial participant, or master netting agreement participant*
2 *under this title shall not affect the priority of any unsecured*
3 *claim it may have after the exercise of such rights.”.*

4 (o) *SETOFF*.—Section 553 of title 11, United States
5 Code, is amended—

6 (1) *in subsection (a)(3)(C), by inserting “(except*
7 *for a setoff of a kind described in section 362(b)(6),*
8 *362(b)(7), 362(b)(17), 362(b)(28), 555, 556, 559, or*
9 *560)” before the period; and*

10 (2) *in subsection (b)(1), by striking*
11 *“362(b)(14),” and inserting “362(b)(17), 362(b)(28),*
12 *555, 556, 559, 560,”.*

13 (p) *SECURITIES CONTRACTS, COMMODITY CONTRACTS,*
14 *AND FORWARD CONTRACTS*.—Title 11, United States Code,
15 *is amended—*

16 (1) *in section 362(b)(6), by striking “financial*
17 *institutions,” each place such term appears and in-*
18 *serting “financial institution, financial participant”;*

19 (2) *in section 546(e), by inserting “financial*
20 *participant” after “financial institution,”;*

21 (3) *in section 548(d)(2)(B), by inserting “finan-*
22 *cial participant” after “financial institution,”;*

23 (4) *in section 555—*

24 (A) *by inserting “financial participant”*
25 *after “financial institution,”; and*

1 (B) by inserting before the period “, a right
2 set forth in a bylaw of a clearing organization
3 or contract market or in a resolution of the gov-
4 erning board thereof, and a right, whether or not
5 in writing, arising under common law, under
6 law merchant, or by reason of normal business
7 practice”; and

8 (5) in section 556, by inserting “, financial par-
9 ticipant” after “commodity broker”.

10 (q) *CONFORMING AMENDMENTS.*—Title 11, United
11 *States Code, is amended—*

12 (1) *in the table of sections for chapter 5—*

13 (A) *by striking the items relating to sections*
14 *555 and 556 and inserting the following:*

“555. Contractual right to liquidate, terminate, or accelerate a securities contract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

15 (B) *by striking the items relating to sections*

16 *559 and 560 and inserting the following:*

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

17 *and*

18 (C) *by adding after the item relating to sec-*
19 *tion 560 the following:*

“561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.”;

20 *and*

21 (2) *in the table of sections for chapter 7—*

1 (A) by inserting after the item relating to
2 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

3 and

4 (B) by inserting after the item relating to
5 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

6 **SEC. 902. DAMAGE MEASURE.**

7 (a) *IN GENERAL.*—Title 11, United States Code, is
8 amended—

9 (1) by inserting after section 561 the following:

10 **“§562. Damage measure in connection with swap**
11 **agreements, securities contracts, forward**
12 **contracts, commodity contracts, repur-**
13 **chase agreements, or master netting**
14 **agreements**

15 *“If the trustee rejects a swap agreement, securities con-*
16 *tract (as defined in section 741), forward contract, com-*
17 *modity contract (as defined in section 761) repurchase*
18 *agreement, or master netting agreement under section*
19 *365(a), or if a forward contract merchant, stockbroker, fi-*
20 *ancial institution, securities clearing agency, repo partici-*
21 *pant, financial participant, master netting agreement par-*

1 *ticipant, or swap participant liquidates, terminates, or ac-*
 2 *celerates such contract or agreement, damages shall be*
 3 *measured as of the earlier of—*

4 *“(1) the date of such rejection; or*

5 *“(2) the date of such liquidation, termination, or*
 6 *acceleration.”; and*

7 *(2) in the table of sections for chapter 5 by in-*
 8 *serting after the item relating to section 561 the fol-*
 9 *lowing:*

*“562. Damage measure in connection with swap agreements, securities contracts,
 forward contracts, commodity contracts, repurchase agreements,
 or master netting agreements.”.*

10 *(b) CLAIMS ARISING FROM REJECTION.—Section*
 11 *502(g) of title 11, United States Code, is amended—*

12 *(1) by inserting “(1)” after “(g)”;* and

13 *(2) by adding at the end the following:*

14 *“(2) A claim for damages calculated in accordance*
 15 *with section 561 shall be allowed under subsection (a), (b),*
 16 *or (c) of this section, or disallowed under subsection (d) or*
 17 *(e) of this section, as if such claim had arisen before the*
 18 *date of the filing of the petition.”.*

19 **SEC. 903. ASSET-BACKED SECURITIZATIONS.**

20 *Section 541 of title 11, United States Code, is*
 21 *amended—*

22 *(1) in subsection (b), by striking “or” at the end*
 23 *of paragraph (4);*

1 (2) *by redesignating paragraph (5) of subsection*
2 *(b) as paragraph (6);*

3 (3) *by inserting after paragraph (4) of sub-*
4 *section (b) the following new paragraph:*

5 “*(5) any eligible asset (or proceeds thereof), to*
6 *the extent that such eligible asset was transferred by*
7 *the debtor, before the date of commencement of the*
8 *case, to an eligible entity in connection with an asset-*
9 *backed securitization, except to the extent that such*
10 *asset (or proceeds or value thereof) may be recovered*
11 *by the trustee under section 550 by virtue of avoid-*
12 *ance under section 548(a); or”;* and

13 (4) *by adding at the end the following:*

14 “*(e) For purposes of this section, the following defini-*
15 *tions shall apply:*

16 “*(1) The term ‘asset-backed securitization’ means*
17 *a transaction in which eligible assets transferred to*
18 *an eligible entity are used as the source of payment*
19 *on securities, the most senior of which are rated in-*
20 *vestment grade by 1 or more nationally recognized se-*
21 *curities rating organizations, issued by an issuer.*

22 “*(2) The term ‘eligible asset’ means—*

23 “*(A) financial assets (including interests*
24 *therein and proceeds thereof), either fixed or re-*
25 *volving, including residential and commercial*

1 *mortgage loans, consumer receivables, trade re-*
2 *ceivables, and lease receivables, that, by their*
3 *terms, convert into cash within a finite time pe-*
4 *riod, plus any rights or other assets designed to*
5 *assure the servicing or timely distribution of*
6 *proceeds to security holders;*

7 *“(B) cash; and*

8 *“(C) securities.*

9 *“(3) The term ‘eligible entity’ means—*

10 *“(A) an issuer; or*

11 *“(B) a trust, corporation, partnership, or*
12 *other entity engaged exclusively in the business*
13 *of acquiring and transferring eligible assets di-*
14 *rectly or indirectly to an issuer and taking ac-*
15 *tions ancillary thereto.*

16 *“(4) The term ‘issuer’ means a trust, corpora-*
17 *tion, partnership, or other entity engaged exclusively*
18 *in the business of acquiring and holding eligible as-*
19 *sets, issuing securities backed by eligible assets, and*
20 *taking actions ancillary thereto.*

21 *“(5) The term ‘transferred’ means the debtor,*
22 *under a written agreement, represented and war-*
23 *ranted that eligible assets were sold, contributed, or*
24 *otherwise conveyed with the intention of removing*

1 *them from the estate of the debtor pursuant to sub-*
2 *section (b)(5), irrespective, without limitation of—*

3 *“(A) whether the debtor directly or indi-*
4 *rectly obtained or held an interest in the issuer*
5 *or in any securities issued by the issuer;*

6 *“(B) whether the debtor had an obligation*
7 *to repurchase or to service or supervise the serv-*
8 *icing of all or any portion of such eligible assets;*
9 *or*

10 *“(C) the characterization of such sale, con-*
11 *tribution, or other conveyance for tax, account-*
12 *ing, regulatory reporting, or other purposes.”.*

13 **SEC. 904. EFFECTIVE DATE; APPLICATION OF AMEND-**
14 **MENTS.**

15 *(a) EFFECTIVE DATE.—This title shall take effect on*
16 *the date of enactment of this Act.*

17 *(b) APPLICATION OF AMENDMENTS.—The amendments*
18 *made by this title shall apply with respect to cases com-*
19 *menced or appointments made under any Federal or State*
20 *law after the date of enactment of this Act, but shall not*
21 *apply with respect to cases commenced or appointments*
22 *made under any Federal or State law before the date of*
23 *enactment of this Act.*

1 **TITLE X—PROTECTION OF FAM-**
2 **ILY FARMERS AND FAMILY**
3 **FISHERMEN**

4 **SEC. 1001. REENACTMENT OF CHAPTER 12.**

5 (a) *REENACTMENT.*—

6 (1) *IN GENERAL.*—Chapter 12 of title 11, United
7 States Code, as reenacted by section 149 of division
8 C of the Omnibus Consolidated and Emergency Sup-
9 plemental Appropriations Act, 1999 (Public Law
10 105–277), and amended by this Act, is reenacted.

11 (2) *EFFECTIVE DATE.*—Subsection (a) shall take
12 effect on October 1, 1999.

13 (b) *CONFORMING AMENDMENT.*—Section 302 of the
14 Bankruptcy, Judges, United States Trustees, and Family
15 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is
16 amended by striking subsection (f).

17 **SEC. 1002. DEBT LIMIT INCREASE.**

18 Section 104(b) of title 11, United States Code, is
19 amended by adding at the end the following:

20 “(4) The dollar amount in section 101(18) shall be ad-
21 justed at the same times and in the same manner as the
22 dollar amounts in paragraph (1) of this subsection, begin-
23 ning with the adjustment to be made on April 1, 2001.”.

1 **SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY**
2 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**
3 **CENT OF INCOME FROM FARMING OPER-**
4 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

5 *Section 101(18)(A) of title 11, United States Code, is*
6 *amended by striking “the taxable year preceding the taxable*
7 *year” and inserting “at least 1 of the 3 calendar years pre-*
8 *ceding the year”.*

9 **SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL**
10 **UNITS.**

11 *(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title*
12 *11, United States Code, is amended to read as follows:*

13 *“(2) provide for the full payment, in deferred*
14 *cash payments, of all claims entitled to priority*
15 *under section 507, unless—*

16 *“(A) the claim is a claim owed to a govern-*
17 *mental unit that arises as a result of the sale,*
18 *transfer, exchange, or other disposition of any*
19 *farm asset used in the debtor’s farming oper-*
20 *ation, in which case the claim shall be treated as*
21 *an unsecured claim that is not entitled to pri-*
22 *ority under section 507, but the debt shall be*
23 *treated in such manner only if the debtor re-*
24 *ceives a discharge; or*

25 *“(B) the holder of a particular claim agrees*
26 *to a different treatment of that claim; and”.*

1 (b) *SPECIAL NOTICE PROVISIONS.*—Section 1231(b) of
2 title 11, United States Code, is amended by striking “a
3 State or local governmental unit” and inserting “any gov-
4 ernmental unit”.

5 **SEC. 1005. PROHIBITION OF RETROACTIVE ASSESSMENT OF**
6 **DISPOSABLE INCOME.**

7 (a) *IN GENERAL.*—Section 1225(b) of title 11, United
8 States Code, is amended by adding at the end the following:

9 “(3) If the plan provides for specific amounts of
10 property to be distributed on account of allowed unse-
11 cured claims as required by paragraph (1)(B), those
12 amounts equal or exceed the debtor’s projected dispos-
13 able income for that period, and the plan meets the
14 requirements for confirmation other than those of this
15 subsection, the plan shall be confirmed.”.

16 (b) *MODIFICATION.*—Section 1229 of title 11, United
17 States Code, is amended by adding at the end the following:

18 “(d)(1) A modification of the plan under this section
19 may not increase the amount of payments that were due
20 prior to the date of the order modifying the plan.

21 “(2) A modification of the plan under this section to
22 increase payments based on an increase in the debtor’s dis-
23 posable income may not require payments to unsecured
24 creditors in any particular month greater than the debtor’s

1 *disposable income for that month unless the debtor proposes*
2 *such a modification.*

3 “(3) *A modification of the plan in the last year of the*
4 *plan shall not require payments that would leave the debtor*
5 *with insufficient funds to carry on the farming operation*
6 *after the plan is completed unless the debtor proposes such*
7 *a modification.”.*

8 **SEC. 1006. FAMILY FISHERMEN.**

9 (a) *DEFINITIONS.—Section 101 of title 11, United*
10 *States Code, is amended—*

11 (1) *by inserting after paragraph (7) the fol-*
12 *lowing:*

13 “(7A) ‘*commercial fishing operation*’ *includes—*

14 “(A) *the catching or harvesting of fish,*
15 *shrimp, lobsters, urchins, seaweed, shellfish, or*
16 *other aquatic species or products; and*

17 “(B) *for purposes of section 109 and chap-*
18 *ter 12, aquaculture activities consisting of rais-*
19 *ing for market any species or product described*
20 *in subparagraph (A);”;*

21 “(7B) ‘*commercial fishing vessel*’ *means a vessel*
22 *used by a fisherman to carry out a commercial fish-*
23 *ing operation;”;*

24 (2) *by inserting after paragraph (19) the fol-*
25 *lowing:*

1 “(19A) *‘family fisherman’* means—

2 “(A) *an individual or individual and*
3 *spouse engaged in a commercial fishing oper-*
4 *ation (including aquiculture for purposes of*
5 *chapter 12)—*

6 “(i) *whose aggregate debts do not ex-*
7 *ceed \$1,500,000 and not less than 80 per-*
8 *cent of whose aggregate noncontingent, liq-*
9 *uidated debts (excluding a debt for the prin-*
10 *cipal residence of such individual or such*
11 *individual and spouse, unless such debt*
12 *arises out of a commercial fishing oper-*
13 *ation), on the date the case is filed, arise*
14 *out of a commercial fishing operation*
15 *owned or operated by such individual or*
16 *such individual and spouse; and*

17 “(ii) *who receive from such commercial*
18 *fishing operation more than 50 percent of*
19 *such individual’s or such individual’s and*
20 *spouse’s gross income for the taxable year*
21 *preceding the taxable year in which the case*
22 *concerning such individual or such indi-*
23 *vidual and spouse was filed; or*

24 “(B) *a corporation or partnership—*

1 “(i) in which more than 50 percent of
2 the outstanding stock or equity is held by—

3 “(I) 1 family that conducts the
4 commercial fishing operation; or

5 “(II) 1 family and the relatives of
6 the members of such family, and such
7 family or such relatives conduct the
8 commercial fishing operation; and

9 “(ii)(I) more than 80 percent of the
10 value of its assets consists of assets related
11 to the commercial fishing operation;

12 “(II) its aggregate debts do not exceed
13 \$1,500,000 and not less than 80 percent of
14 its aggregate noncontingent, liquidated
15 debts (excluding a debt for 1 dwelling which
16 is owned by such corporation or partner-
17 ship and which a shareholder or partner
18 maintains as a principal residence, unless
19 such debt arises out of a commercial fishing
20 operation), on the date the case is filed,
21 arise out of a commercial fishing operation
22 owned or operated by such corporation or
23 such partnership; and

24 “(III) if such corporation issues stock,
25 such stock is not publicly traded;” and

1 (3) *by inserting after paragraph (19A) the fol-*
2 *lowing:*

3 “(19B) *‘family fisherman with regular annual*
4 *income’ means a family fisherman whose annual in-*
5 *come is sufficiently stable and regular to enable such*
6 *family fisherman to make payments under a plan*
7 *under chapter 12 of this title;”.*

8 (b) *WHO MAY BE A DEBTOR.*—Section 109(f) of title
9 11, United States Code, is amended by inserting “or family
10 fisherman” after “family farmer”.

11 (c) *CHAPTER 12.*—Chapter 12 of title 11, United
12 States Code, is amended—

13 (1) *in the chapter heading, by inserting “**OR***
14 ***FISHERMAN**” after “**FAMILY FARMER**”;*

15 (2) *in section 1201, by adding at the end the fol-*
16 *lowing:*

17 “(e)(1) *Notwithstanding any other provision of law,*
18 *for purposes of this subsection, a guarantor of a claim of*
19 *a creditor under this section shall be treated in the same*
20 *manner as a creditor with respect to the operation of a stay*
21 *under this section.*

22 “(2) *For purposes of a claim that arises from the own-*
23 *ership or operation of a commercial fishing operation, a*
24 *co-maker of a loan made by a creditor under this section*

1 *shall be treated in the same manner as a creditor with re-*
2 *spect to the operation of a stay under this section.”;*

3 (3) *in section 1203, by inserting “or commercial*
4 *fishing operation” after “farm”;*

5 (4) *in section 1206, by striking “if the property*
6 *is farmland or farm equipment” and inserting “if the*
7 *property is farmland, farm equipment, or property of*
8 *a commercial fishing operation (including a commer-*
9 *cial fishing vessel)”;* and

10 (5) *by adding at the end the following:*

11 **“§ 1232. Additional provisions relating to family fish-**
12 **ermen**

13 “(a)(1) *Notwithstanding any other provision of law,*
14 *except as provided in subsection (c), with respect to any*
15 *commercial fishing vessel of a family fisherman, the debts*
16 *of that family fisherman shall be treated in the manner pre-*
17 *scribed in paragraph (2).*

18 “(2)(A) *For purposes of this chapter, a claim for a*
19 *lien described in subsection (b) for a commercial fishing ves-*
20 *sel of a family fisherman that could, but for this subsection,*
21 *be subject to a lien under otherwise applicable maritime*
22 *law, shall be treated as an unsecured claim.*

23 “(B) *Subparagraph (A) applies to a claim for a lien*
24 *resulting from a debt of a family fisherman incurred on*
25 *or after the date of enactment of this chapter.*

1 “(b) A lien described in this subsection is—

2 “(1) a maritime lien under subchapter III of
3 chapter 313 of title 46, United States Code, without
4 regard to whether that lien is recorded under section
5 31343 of title 46, United States Code; or

6 “(2) a lien under applicable State law (or the
7 law of a political subdivision thereof).

8 “(c) Subsection (a) shall not apply to—

9 “(1) a claim made by a member of a crew or a
10 seaman including a claim made for—

11 “(A) wages, maintenance, or cure; or

12 “(B) personal injury; or

13 “(2) a preferred ship mortgage that has been per-
14 fected under subchapter II of chapter 313 of title 46,
15 United States Code.

16 “(d) For purposes of this chapter, a mortgage described
17 in subsection (c)(2) shall be treated as a secured claim.”.

18 (d) CLERICAL AMENDMENTS.—

19 (1) TABLE OF CHAPTERS.—In the table of chap-
20 ters for title 11, United States Code, the item relating
21 to chapter 12, is amended to read as follows:

**“12. Adjustments of Debts of a Family Farmer or Family
Fisherman with Regular Annual Income 1201”.**

22 (2) TABLE OF SECTIONS.—The table of sections
23 for chapter 12 of title 11, United States Code, is
24 amended by adding at the end the following new item:

“1232. Additional provisions relating to family fishermen.”.

1 **TITLE XI—HEALTH CARE AND**
2 **EMPLOYEE BENEFITS**

3 **SEC. 1101. DEFINITIONS.**

4 (a) *HEALTH CARE BUSINESS DEFINED.*—Section 101
5 of title 11, United States Code, as amended by section
6 1003(a) of this Act, is amended—

7 (1) by redesignating paragraph (27A) as para-
8 graph (27B); and

9 (2) inserting after paragraph (27) the following:

10 “(27A) ‘health care business’—

11 “(A) means any public or private entity
12 (without regard to whether that entity is orga-
13 nized for profit or not for profit) that is pri-
14 marily engaged in offering to the general public
15 facilities and services for—

16 “(i) the diagnosis or treatment of in-
17 jury, deformity, or disease; and

18 “(ii) surgical, drug treatment, psy-
19 chiatric or obstetric care; and

20 “(B) includes—

21 “(i) any—

22 “(I) general or specialized hos-
23 pital;

24 “(II) ancillary ambulatory, emer-
25 gency, or surgical treatment facility;

1 “(III) hospice;
2 “(IV) home health agency; and
3 “(V) other health care institution
4 that is similar to an entity referred to
5 in subclause (I), (II), (III), or (IV);
6 and
7 “(ii) any long-term care facility, in-
8 cluding any—
9 “(I) skilled nursing facility;
10 “(II) intermediate care facility;
11 “(III) assisted living facility;
12 “(IV) home for the aged;
13 “(V) domiciliary care facility;
14 and
15 “(VI) health care institution that
16 is related to a facility referred to in
17 subclause (I), (II), (III), (IV), or (V),
18 if that institution is primarily engaged
19 in offering room, board, laundry, or
20 personal assistance with activities of
21 daily living and incidentals to activi-
22 ties of daily living;”.

23 (b) *PATIENT DEFINED.*—Section 101 of title 11,
24 *United States Code*, as amended by subsection (a) of this

1 *section, is amended by inserting after paragraph (40) the*
2 *following:*

3 “(40A) ‘patient’ means any person who obtains
4 or receives services from a health care business;”.

5 (c) *PATIENT RECORDS DEFINED.*—Section 101 of title
6 11, United States Code, as amended by subsection (b) of
7 this section, is amended by inserting after paragraph (40A)
8 the following:

9 “(40B) ‘patient records’ means any written doc-
10 ument relating to a patient or a record recorded in
11 a magnetic, optical, or other form of electronic me-
12 dium;”.

13 (d) *RULE OF CONSTRUCTION.*—The amendments made
14 by subsection (a) of this section shall not affect the interpre-
15 tation of section 109(b) of title 11, United States Code.

16 **SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

17 (a) *IN GENERAL.*—Subchapter III of chapter 3 of title
18 11, United States Code, is amended by adding at the end
19 the following:

20 **“§ 351. Disposal of patient records**

21 “If a health care business commences a case under
22 chapter 7, 9, or 11, and the trustee does not have a sufficient
23 amount of funds to pay for the storage of patient records
24 in the manner required under applicable Federal or State
25 law, the following requirements shall apply:

1 “(1) *The trustee shall—*

2 “(A) *publish notice, in 1 or more appro-*
3 *priate newspapers, that if patient records are*
4 *not claimed by the patient or an insurance pro-*
5 *vider (if applicable law permits the insurance*
6 *provider to make that claim) by the date that is*
7 *90 days after the date of that notification, the*
8 *trustee will destroy the patient records; and*

9 “(B) *during the 90-day period described in*
10 *subparagraph (A), attempt to notify directly*
11 *each patient that is the subject of the patient*
12 *records and appropriate insurance carrier con-*
13 *cerning the patient records by mailing to the last*
14 *known address of that patient and appropriate*
15 *insurance carrier an appropriate notice regard-*
16 *ing the claiming or disposing of patient records.*

17 “(2) *If after providing the notification under*
18 *paragraph (1), patient records are not claimed dur-*
19 *ing the 90-day period described under that para-*
20 *graph, the trustee shall mail, by certified mail, at the*
21 *end of such 90-day period a written request to each*
22 *appropriate Federal agency to request permission*
23 *from that agency to deposit the patient records with*
24 *that agency.*

1 “(3) If, following the period in paragraph (2)
2 and after providing the notification under paragraph
3 (1), patient records are not claimed during the 90-
4 day period described in paragraph (1)(A) or in any
5 case in which a notice is mailed under paragraph
6 (1)(B), during the 90-day period beginning on the
7 date on which the notice is mailed, by a patient or
8 insurance provider in accordance with that para-
9 graph, the trustee shall destroy those records by—

10 “(A) if the records are written, shredding or
11 burning the records; or

12 “(B) if the records are magnetic, optical, or
13 other electronic records, by otherwise destroying
14 those records so that those records cannot be re-
15 trieved.”.

16 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
17 chapter 3 of title 11, United States Code, is amended by
18 inserting after the item relating to section 350 the following:
 “351. Disposal of patient records.”.

19 **SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF**
20 **CLOSING A HEALTH CARE BUSINESS.**

21 Section 503(b) of title 11, United States Code, is
22 amended—

23 (1) in paragraph (5), by striking “and” at the
24 end;

1 (2) *in paragraph (6), by striking the period at*
 2 *the end and inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “(7) *the actual, necessary costs and expenses of*
 5 *closing a health care business incurred by a trustee or*
 6 *by a Federal agency (as that term is defined in sec-*
 7 *tion 551(1) of title 5) or a department or agency of*
 8 *a State or political subdivision thereof, including any*
 9 *cost or expense incurred—*

10 “(A) *in disposing of patient records in ac-*
 11 *cordance with section 351; or*

12 “(B) *in connection with transferring pa-*
 13 *tients from the health care business that is in the*
 14 *process of being closed to another health care*
 15 *business.”.*

16 **SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PA-**
 17 **TIENT ADVOCATE.**

18 (a) *IN GENERAL.—*

19 (1) *APPOINTMENT OF OMBUDSMAN.—Subchapter*
 20 *II of chapter 3 of title 11, United States Code, is*
 21 *amended by inserting after section 331 the following:*

22 **“§ 332. Appointment of ombudsman**

23 “(a) *Not later than 30 days after a case is commenced*
 24 *by a health care business under chapter 7, 9, or 11, the*
 25 *court shall appoint an ombudsman with appropriate exper-*

1 *tise in monitoring the quality of patient care to represent*
2 *the interests of the patients of the health care business. The*
3 *court may appoint as an ombudsman a person who is serv-*
4 *ing as a State Long-Term Care Ombudsman appointed*
5 *under title III or VII of the Older Americans Act of 1965*
6 *(42 U.S.C. 3021 et seq. and 3058 et seq.).*

7 “(b) *An ombudsman appointed under subsection (a)*
8 *shall—*

9 “(1) *monitor the quality of patient care, to the*
10 *extent necessary under the circumstances, including*
11 *interviewing patients and physicians;*

12 “(2) *not later than 60 days after the date of ap-*
13 *pointment, and not less frequently than every 60 days*
14 *thereafter, report to the court, at a hearing or in*
15 *writing, regarding the quality of patient care at the*
16 *health care business involved; and*

17 “(3) *if the ombudsman determines that the qual-*
18 *ity of patient care is declining significantly or is oth-*
19 *erwise being materially compromised, notify the court*
20 *by motion or written report, with notice to appro-*
21 *priate parties in interest, immediately upon making*
22 *that determination.*

23 “(c) *An ombudsman shall maintain any information*
24 *obtained by the ombudsman under this section that relates*

1 to patients (including information relating to patient
2 records) as confidential information.”.

3 (2) *CLERICAL AMENDMENT.*—The chapter anal-
4 ysis for chapter 3 of title 11, United States Code, is
5 amended by inserting after the item relating to sec-
6 tion 331 the following:

“332. Appointment of ombudsman.”.

7 (b) *COMPENSATION OF OMBUDSMAN.*—Section
8 330(a)(1) of title 11, United States Code, is amended—

9 (1) in the matter proceeding subparagraph (A),
10 by inserting “an ombudsman appointed under section
11 331, or” before “a professional person”; and

12 (2) in subparagraph (A), by inserting “ombuds-
13 man,” before “professional person”.

14 **SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO**
15 **TRANSFER PATIENTS.**

16 (a) *IN GENERAL.*—Section 704(a) of title 11, United
17 States Code, as amended by section 219 of this Act, is
18 amended—

19 (1) in paragraph (9), by striking “and” at the
20 end;

21 (2) in paragraph (10), by striking the period
22 and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(11) use all reasonable and best efforts to trans-
25 fer patients from a health care business that is in the

1 *process of being closed to an appropriate health care*
2 *business that—*

3 *“(A) is in the vicinity of the health care*
4 *business that is closing;*

5 *“(B) provides the patient with services that*
6 *are substantially similar to those provided by the*
7 *health care business that is in the process of*
8 *being closed; and*

9 *“(C) maintains a reasonable quality of*
10 *care.”.*

11 *(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of*
12 *title 11, United States Code, is amended by striking*
13 *“704(2), 704(5), 704(7), 704(8), and 704(9)” and inserting*
14 *“704(a) (2), (5), (7), (8), (9), and (11)”.*

15 **SEC. 1106. ESTABLISHMENT OF POLICY AND PROTOCOLS**
16 **RELATING TO BANKRUPTCIES OF HEALTH**
17 **CARE BUSINESSES.**

18 *Not later than 30 days after the date of enactment of*
19 *this Act, the Attorney General of the United States, in con-*
20 *sultation with the Secretary of Health and Human Services*
21 *and the National Association of Attorneys General, shall*
22 *establish a policy and protocols for coordinating a response*
23 *to bankruptcies of health care businesses (as that term is*
24 *defined in section 101 of title 11, United States Code), in-*

1 *cluding assessing the appropriate time frame for disposal*
2 *of patient records under section 1102 of this Act.*

3 **SEC. 1107. EXCLUSION FROM PROGRAM PARTICIPATION**

4 **NOT SUBJECT TO AUTOMATIC STAY.**

5 *Section 362(b) of title 11, United States Code, as*
6 *amended by section 901(d) of this Act, is amended—*

7 *(1) in paragraph (27), by striking “or” at the*
8 *end;*

9 *(2) in paragraph (28), by striking the period at*
10 *the end and inserting “; or”; and*

11 *(3) by inserting after paragraph (28) the fol-*
12 *lowing:*

13 *“(29) under subsection (a), of the exclusion by*
14 *the Secretary of Health and Human Services of the*
15 *debtor from participation in the medicare program or*
16 *any other Federal health care program (as defined in*
17 *section 1128B(f) of the Social Security Act (42 U.S.C.*
18 *1320a–7b(f)) pursuant to title XI of such Act (42*
19 *U.S.C. 1301 et seq.) or title XVIII of such Act (42*
20 *U.S.C. 1395 et seq.).”.*

1 **TITLE XII—AMENDMENTS TO**
2 **FAIR LABOR STANDARDS ACT**
3 **OF 1938**

4 **SEC. 1201. MINIMUM WAGE.**

5 *Section 6(a)(1) of the Fair Labor Standards Act of*
6 *1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:*

7 *“(1) except as otherwise provided in this section,*
8 *not less than—*

9 *“(A) \$5.15 an hour beginning September 1,*
10 *1997,*

11 *“(B) \$5.50 an hour during the year begin-*
12 *ning March 1, 2000,*

13 *“(C) \$5.85 an hour during the year begin-*
14 *ning March 1, 2001, and*

15 *“(D) \$6.15 an hour during the year begin-*
16 *ning March 1, 2002.”.*

17 **SEC. 1202. REGULAR RATE FOR OVERTIME PURPOSES.**

18 *Section 7(e) of the Fair Labor Standards Act of 1938*
19 *(29 U.S.C. 207(e)) is amended—*

20 *(1) by inserting before the semicolon at the end*
21 *of paragraph (3) the following: “; or (d) the payments*
22 *are made to reward an employee or group of employ-*
23 *ees for meeting or exceeding the productivity, quality,*
24 *efficiency, or sales goals as specified in a gainsharing,*

1 *incentive bonus, commission, or performance contin-*
2 *gent bonus plan”;* and

3 (2) *by inserting after and below paragraph (7)*
4 *the following:*

5 *“A plan described in paragraph (3)(d) shall be in writing*
6 *and made available to employees, provide that the amount*
7 *of the payments to be made under the plan be based upon*
8 *a formula that is stated in the plan, and be established and*
9 *maintained in good faith for the purpose of distributing*
10 *to employees additional remuneration over and above the*
11 *wages and salaries that are not dependent upon the exist-*
12 *ence of such plan or payments made pursuant to such*
13 *plan.”.*

14 ***TITLE XIII—TAX RELIEF***

15 ***SEC. 1300. AMENDMENT OF 1986 CODE.***

16 *Except as otherwise expressly provided, whenever in*
17 *this title an amendment or repeal is expressed in terms of*
18 *an amendment to, or repeal of, a section or other provision,*
19 *the reference shall be considered to be made to a section or*
20 *other provision of the Internal Revenue Code of 1986.*

21 ***Subtitle A—Small Business Tax***
22 ***Relief***

23 ***SEC. 1301. INCREASE IN EXPENSING LIMITATION TO \$30,000.***

24 (a) *IN GENERAL.—Paragraph (1) of section 179(b)*
25 *(relating to limitations) is amended to read as follows:*

1 “(1) *DOLLAR LIMITATION.*—*The aggregate cost*
2 *which may be taken into account under subsection (a)*
3 *for any taxable year shall not exceed \$30,000.*”

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
5 *section shall apply to taxable years beginning after Decem-*
6 *ber 31, 2000.*

7 **SEC. 1302. REPEAL OF TEMPORARY UNEMPLOYMENT TAX.**

8 *Section 3301 (relating to rate of unemployment tax)*
9 *is amended—*

10 (1) *by striking “2007” in paragraph (1) and in-*
11 *serting “2000”; and*

12 (2) *by striking “2008” in paragraph (2) and in-*
13 *serting “2001”.*

14 **SEC. 1303. FULL DEDUCTION OF HEALTH INSURANCE**
15 **COSTS FOR SELF-EMPLOYED INDIVIDUALS.**

16 (a) *IN GENERAL.*—*Section 162(l)(1) (relating to al-*
17 *lowance of deduction) is amended to read as follows:*

18 “(1) *ALLOWANCE OF DEDUCTION.*—*In the case of*
19 *an individual who is an employee within the mean-*
20 *ing of section 401(c)(1), there shall be allowed as a*
21 *deduction under this section an amount equal to the*
22 *amount paid during the taxable year for insurance*
23 *which constitutes medical care for the taxpayer and*
24 *the taxpayer’s spouse and dependents.*”

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 1999.*

4 **SEC. 1304. PERMANENT EXTENSION OF WORK OPPOR-**
5 **TUNITY TAX CREDIT.**

6 (a) *IN GENERAL.*—*Section 51(c) (defining wages) is*
7 *amended by striking paragraph (4).*

8 (b) *EFFECTIVE DATE.*—*The amendment made by this*
9 *section shall apply to individuals who begin work for the*
10 *employer after June 30, 1999.*

11 **SEC. 1305. SMALL BUSINESSES ALLOWED INCREASED DE-**
12 **DUCTION FOR MEAL AND ENTERTAINMENT**
13 **EXPENSES.**

14 (a) *IN GENERAL.*—*Subsection (n) of section 274 (relat-*
15 *ing to only 50 percent of meal and entertainment expenses*
16 *allowed as deduction) is amended by adding at the end the*
17 *following:*

18 “(4) *SPECIAL RULE FOR SMALL BUSINESSES.*—

19 “(A) *IN GENERAL.*—*In the case of any tax-*
20 *payer which is a small business, paragraph (1)*
21 *shall be applied by substituting ‘the applicable*
22 *percentage’ for ‘50 percent’. For purposes of the*
23 *preceding sentence, the term ‘applicable percent-*
24 *age’ means 55 percent in the case of taxable*
25 *years beginning in 2001, increased (but not*

1 *above 80 percent) by 5 percentage points for each*
2 *succeeding calendar year after 2001 with respect*
3 *to taxable years beginning in each such calendar*
4 *year.*

5 “(B) *SMALL BUSINESS.*—*For purposes of*
6 *this paragraph, the term ‘small business’ means,*
7 *with respect to expenses paid or incurred during*
8 *any taxable year—*

9 “(i) *any C corporation which meets the*
10 *requirements of section 55(e)(1) for such*
11 *year, and*

12 “(ii) *any S corporation, partnership,*
13 *or sole proprietorship which would meet*
14 *such requirements if it were a C corpora-*
15 *tion.”*

16 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
17 *section (a) shall apply to taxable years beginning after De-*
18 *cember 31, 2000.*

1 ***Subtitle B—Deduction for Health***
 2 ***and Long-Term Care Insurance***

3 **SEC. 1311. DEDUCTION FOR HEALTH AND LONG-TERM CARE**
 4 **INSURANCE COSTS OF INDIVIDUALS NOT**
 5 **PARTICIPATING IN EMPLOYER-SUBSIDIZED**
 6 **HEALTH PLANS.**

7 *(a) IN GENERAL.—Part VII of subchapter B of chapter*
 8 *1 is amended by redesignating section 222 as section 223*
 9 *and by inserting after section 221 the following new section:*

10 **“SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE**
 11 **COSTS.**

12 *“(a) IN GENERAL.—In the case of an individual, there*
 13 *shall be allowed as a deduction an amount equal to the ap-*
 14 *plicable percentage of the amount paid during the taxable*
 15 *year for insurance which constitutes medical care for the*
 16 *taxpayer and the taxpayer’s spouse and dependents.*

17 *“(b) APPLICABLE PERCENTAGE.—For purposes of sub-*
 18 *section (a), the applicable percentage shall be determined*
 19 *in accordance with the following table:*

“For taxable years beginning in calendar year—	The applicable percentage is—
2002, 2003, and 2004	25
2005	35
2006	65
2007 and thereafter	100.

20 *“(c) LIMITATION BASED ON OTHER COVERAGE.—*

21 *“(1) COVERAGE UNDER CERTAIN SUBSIDIZED*
 22 *EMPLOYER PLANS.—*

1 “(A) *IN GENERAL.*—*Subsection (a) shall not*
2 *apply to any taxpayer for any calendar month*
3 *for which the taxpayer participates in any*
4 *health plan maintained by any employer of the*
5 *taxpayer or of the spouse of the taxpayer if 50*
6 *percent or more of the cost of coverage under*
7 *such plan (determined under section 4980B and*
8 *without regard to payments made with respect to*
9 *any coverage described in subsection (e)) is paid*
10 *or incurred by the employer.*

11 “(B) *EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.*—*Em-*
12 *ployer contributions to a cafeteria plan, a flexi-*
13 *ble spending or similar arrangement, or a med-*
14 *ical savings account which are excluded from*
15 *gross income under section 106 shall be treated*
16 *for purposes of subparagraph (A) as paid by the*
17 *employer.*

20 “(C) *AGGREGATION OF PLANS OF EM-*
21 *PLOYER.*—*A health plan which is not otherwise*
22 *described in subparagraph (A) shall be treated as*
23 *described in such subparagraph if such plan*
24 *would be so described if all health plans of per-*
25 *sons treated as a single employer under sub-*

1 *section (b), (c), (m), or (o) of section 414 were*
2 *treated as one health plan.*

3 “(D) *SEPARATE APPLICATION TO HEALTH*
4 *INSURANCE AND LONG-TERM CARE INSURANCE.—*
5 *Subparagraphs (A) and (C) shall be applied sep-*
6 *arately with respect to—*

7 “(i) *plans which include primarily*
8 *coverage for qualified long-term care serv-*
9 *ices or are qualified long-term care insur-*
10 *ance contracts, and*

11 “(ii) *plans which do not include such*
12 *coverage and are not such contracts.*

13 “(2) *COVERAGE UNDER CERTAIN FEDERAL PRO-*
14 *GRAMS.—*

15 “(A) *IN GENERAL.—Subsection (a) shall not*
16 *apply to any amount paid for any coverage for*
17 *an individual for any calendar month if, as of*
18 *the first day of such month, the individual is*
19 *covered under any medical care program de-*
20 *scribed in—*

21 “(i) *title XVIII, XIX, or XXI of the So-*
22 *cial Security Act,*

23 “(ii) *chapter 55 of title 10, United*
24 *States Code,*

1 “(iii) chapter 17 of title 38, United
2 States Code,

3 “(iv) chapter 89 of title 5, United
4 States Code, or

5 “(v) the Indian Health Care Improve-
6 ment Act.

7 “(B) EXCEPTIONS.—

8 “(i) QUALIFIED LONG-TERM CARE.—
9 Subparagraph (A) shall not apply to
10 amounts paid for coverage under a qualified
11 long-term care insurance contract.

12 “(ii) CONTINUATION COVERAGE OF
13 FEHBP.—Subparagraph (A)(iv) shall not
14 apply to coverage which is comparable to
15 continuation coverage under section 4980B.

16 “(d) LONG-TERM CARE DEDUCTION LIMITED TO
17 QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—
18 In the case of a qualified long-term care insurance contract,
19 only eligible long-term care premiums (as defined in section
20 213(d)(10)) may be taken into account under subsection (a).

21 “(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF
22 ANCILLARY COVERAGE PREMIUMS.—Any amount paid as
23 a premium for insurance which provides for—

24 “(1) coverage for accidents, disability, dental
25 care, vision care, or a specified illness, or

1 “(2) *making payments of a fixed amount per*
2 *day (or other period) by reason of being hospitalized,*
3 *shall not be taken into account under subsection (a).*

4 “(f) *SPECIAL RULES.—*

5 “(1) *COORDINATION WITH DEDUCTION FOR*
6 *HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDI-*
7 *VIDUALS.—The amount taken into account by the tax-*
8 *payer in computing the deduction under section*
9 *162(l) shall not be taken into account under this sec-*
10 *tion.*

11 “(2) *COORDINATION WITH MEDICAL EXPENSE*
12 *DEDUCTION.—The amount taken into account by the*
13 *taxpayer in computing the deduction under this sec-*
14 *tion shall not be taken into account under section*
15 *213.*

16 “(g) *REGULATIONS.—The Secretary shall prescribe*
17 *such regulations as may be appropriate to carry out this*
18 *section, including regulations requiring employers to report*
19 *to their employees and the Secretary such information as*
20 *the Secretary determines to be appropriate.”.*

21 “(b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
22 *PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of*
23 *section 62 is amended by inserting after paragraph (17)*
24 *the following new item:*

1 “(18) *HEALTH AND LONG-TERM CARE INSUR-*
 2 *ANCE COSTS.—The deduction allowed by section*
 3 *222.”.*

4 *(c) CLERICAL AMENDMENT.—The table of sections for*
 5 *part VII of subchapter B of chapter 1 is amended by strik-*
 6 *ing the last item and inserting the following new items:*

“Sec. 222. Health and long-term care insurance costs.

“Sec. 223. Cross reference.”.

7 *(d) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to taxable years beginning after Decem-*
 9 *ber 31, 2000.*

10 ***Subtitle C—Pension Tax Relief***

11 ***PART I—EXPANDING COVERAGE***

12 ***SEC. 1321. INCREASE IN BENEFIT AND CONTRIBUTION LIM-***

13 ***ITS.***

14 *(a) DEFINED BENEFIT PLANS.—*

15 *(1) DOLLAR LIMIT.—*

16 *(A) Subparagraph (A) of section 415(b)(1)*
 17 *(relating to limitation for defined benefit plans)*
 18 *is amended by striking “\$90,000” and inserting*
 19 *“\$160,000”.*

20 *(B) Subparagraphs (C) and (D) of section*
 21 *415(b)(2) are each amended by striking*
 22 *“\$90,000” each place it appears in the headings*
 23 *and the text and inserting “\$160,000”.*

1 (C) Paragraph (7) of section 415(b) (relat-
2 ing to benefits under certain collectively bar-
3 gained plans) is amended by striking “the great-
4 er of \$68,212 or one-half the amount otherwise
5 applicable for such year under paragraph (1)(A)
6 for ‘\$90,000’” and inserting “one-half the
7 amount otherwise applicable for such year under
8 paragraph (1)(A) for ‘\$160,000’”.

9 (2) *LIMIT REDUCED WHEN BENEFIT BEGINS BE-*
10 *FORE AGE 62.*—Subparagraph (C) of section 415(b)(2)
11 is amended by striking “the social security retirement
12 age” each place it appears in the heading and text
13 and inserting “age 62”.

14 (3) *LIMIT INCREASED WHEN BENEFIT BEGINS*
15 *AFTER AGE 65.*—Subparagraph (D) of section
16 415(b)(2) is amended by striking “the social security
17 retirement age” each place it appears in the heading
18 and text and inserting “age 65”.

19 (4) *COST-OF-LIVING ADJUSTMENTS.*—Subsection
20 (d) of section 415 (related to cost-of-living adjust-
21 ments) is amended—

22 (A) by striking “\$90,000” in paragraph
23 (1)(A) and inserting “\$160,000”, and

24 (B) in paragraph (3)(A)—

1 (i) by striking “\$90,000” in the head-
2 ing and inserting “\$160,000”, and

3 (ii) by striking “October 1, 1986” and
4 inserting “July 1, 2000”.

5 (5) CONFORMING AMENDMENT.—Section
6 415(b)(2) is amended by striking subparagraph (F).

7 (b) DEFINED CONTRIBUTION PLANS.—

8 (1) DOLLAR LIMIT.—Subparagraph (A) of sec-
9 tion 415(c)(1) (relating to limitation for defined con-
10 tribution plans) is amended by striking “\$30,000”
11 and inserting “\$40,000”.

12 (2) COST-OF-LIVING ADJUSTMENTS.—Subsection
13 (d) of section 415 (related to cost-of-living adjust-
14 ments) is amended—

15 (A) by striking “\$30,000” in paragraph
16 (1)(C) and inserting “\$40,000”, and

17 (B) in paragraph (3)(D)—

18 (i) by striking “\$30,000” in the head-
19 ing and inserting “\$40,000”, and

20 (ii) by striking “October 1, 1993” and
21 inserting “July 1, 2000”.

22 (c) QUALIFIED TRUSTS.—

23 (1) COMPENSATION LIMIT.—Sections 401(a)(17),
24 404(l), 408(k), and 505(b)(7) are each amended by

1 *striking “\$150,000” each place it appears and insert-*
2 *ing “\$200,000”.*

3 (2) *BASE PERIOD AND ROUNDING OF COST-OF-*
4 *LIVING ADJUSTMENT.—Subparagraph (B) of section*
5 *401(a)(17) is amended—*

6 (A) *by striking “October 1, 1993” and in-*
7 *serting “July 1, 2000”, and*

8 (B) *by striking “\$10,000” both places it ap-*
9 *pears and inserting “\$5,000”.*

10 (d) *ELECTIVE DEFERRALS.—*

11 (1) *IN GENERAL.—Paragraph (1) of section*
12 *402(g) (relating to limitation on exclusion for elective*
13 *deferrals) is amended to read as follows:*

14 “(1) *IN GENERAL.—*

15 “(A) *LIMITATION.—Notwithstanding sub-*
16 *sections (e)(3) and (h)(1)(B), the elective defer-*
17 *rals of any individual for any taxable year shall*
18 *be included in such individual’s gross income to*
19 *the extent the amount of such deferrals for the*
20 *taxable year exceeds the applicable dollar*
21 *amount.*

22 “(B) *APPLICABLE DOLLAR AMOUNT.—For*
23 *purposes of subparagraph (A), the applicable*
24 *dollar amount shall be the amount determined in*
25 *accordance with the following table:*

<i>“For taxable years beginning in calendar year:</i>	<i>The applicable dollar amount:</i>
2001	\$11,000
2002	\$12,000
2003	\$13,000
2004	\$14,000
2005 or thereafter	\$15,000.”.

1 (2) *COST-OF-LIVING ADJUSTMENT.*—Paragraph
2 (5) of section 402(g) is amended to read as follows:

3 “*(5) COST-OF-LIVING ADJUSTMENT.*—In the case
4 of taxable years beginning after December 31, 2005,
5 the Secretary shall adjust the \$15,000 amount under
6 paragraph (1)(B) at the same time and in the same
7 manner as under section 415(d), except that the base
8 period shall be the calendar quarter beginning July 1,
9 2004, and any increase under this paragraph which
10 is not a multiple of \$500 shall be rounded to the next
11 lowest multiple of \$500.”.

12 (3) *CONFORMING AMENDMENTS.*—

13 (A) Section 402(g) (relating to limitation
14 on exclusion for elective deferrals), as amended
15 by paragraphs (1) and (2), is further amended
16 by striking paragraph (4) and redesignating
17 paragraphs (5), (6), (7), (8), and (9) as para-
18 graphs (4), (5), (6), (7), and (8), respectively.

19 (B) Paragraph (2) of section 457(c) is
20 amended by striking “402(g)(8)(A)(iii)” and in-
21 serting “402(g)(7)(A)(iii)”.

1 (C) Clause (iii) of section 501(c)(18)(D) is
 2 amended by striking “(other than paragraph (4)
 3 thereof)”.

4 (e) DEFERRED COMPENSATION PLANS OF STATE AND
 5 LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-
 6 TIONS.—

7 (1) IN GENERAL.—Section 457 (relating to de-
 8 ferred compensation plans of State and local govern-
 9 ments and tax-exempt organizations) is amended—

10 (A) in subsections (b)(2)(A) and (c)(1) by
 11 striking “\$7,500” each place it appears and in-
 12 serting “the applicable dollar amount”, and

13 (B) in subsection (b)(3)(A) by striking
 14 “\$15,000” and inserting “twice the dollar
 15 amount in effect under subsection (b)(2)(A)”.

16 (2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIV-
 17 ING ADJUSTMENT.—Paragraph (15) of section 457(e)
 18 is amended to read as follows:

19 “(15) APPLICABLE DOLLAR AMOUNT.—

20 “(A) IN GENERAL.—The applicable dollar
 21 amount shall be the amount determined in ac-
 22 cordance with the following table:

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$11,000
2002	\$12,000
2003	\$13,000
2004	\$14,000
2005 or thereafter	\$15,000.

1 “(B) *COST-OF-LIVING ADJUSTMENTS.*—*In*
 2 *the case of taxable years beginning after Decem-*
 3 *ber 31, 2005, the Secretary shall adjust the*
 4 *\$15,000 amount specified in the table in sub-*
 5 *paragraph (A) at the same time and in the same*
 6 *manner as under section 415(d), except that the*
 7 *base period shall be the calendar quarter begin-*
 8 *ning July 1, 2004, and any increase under this*
 9 *paragraph which is not a multiple of \$500 shall*
 10 *be rounded to the next lowest multiple of \$500.”.*

11 (f) *SIMPLE RETIREMENT ACCOUNTS.*—

12 (1) *LIMITATION.*—*Clause (ii) of section*
 13 *408(p)(2)(A) (relating to general rule for qualified*
 14 *salary reduction arrangement) is amended by striking*
 15 *“\$6,000” and inserting “the applicable dollar*
 16 *amount”.*

17 (2) *APPLICABLE DOLLAR AMOUNT.*—*Subpara-*
 18 *graph (E) of 408(p)(2) is amended to read as follows:*

19 “(E) *APPLICABLE DOLLAR AMOUNT; COST-*
 20 *OF-LIVING ADJUSTMENT.*—

21 “(i) *IN GENERAL.*—*For purposes of*
 22 *subparagraph (A)(ii), the applicable dollar*
 23 *amount shall be the amount determined in*
 24 *accordance with the following table:*

“For taxable years beginning in calendar year:	The applicable dollar amount:
2001	\$7,000

<i>“For taxable years beginning in calendar year:</i>	<i>The applicable dollar amount:</i>
2002	\$8,000
2003	\$9,000
2004 or thereafter	\$10,000.

1 “(i) *COST-OF-LIVING ADJUSTMENT.*—
2 *In the case of a year beginning after Decem-*
3 *ber 31, 2004, the Secretary shall adjust the*
4 *\$10,000 amount under clause (i) at the*
5 *same time and in the same manner as*
6 *under section 415(d), except that the base*
7 *period taken into account shall be the cal-*
8 *endar quarter beginning July 1, 2003, and*
9 *any increase under this subparagraph*
10 *which is not a multiple of \$500 shall be*
11 *rounded to the next lower multiple of*
12 *\$500.”.*

13 (3) *CONFORMING AMENDMENTS.*—

14 (A) *Clause (I) of section 401(k)(11)(B)(i) is*
15 *amended by striking “\$6,000” and inserting “the*
16 *amount in effect under section 408(p)(2)(A)(ii)”.*

17 (B) *Section 401(k)(11) is amended by strik-*
18 *ing subparagraph (E).*

19 (g) *ROUNDING RULE RELATING TO DEFINED BENEFIT*
20 *PLANS AND DEFINED CONTRIBUTION PLANS.*—*Paragraph*
21 *(4) of section 415(d) is amended to read as follows:*

22 “(4) *ROUNDING.*—

1 “(A) \$160,000 AMOUNT.—Any increase
2 under subparagraph (A) of paragraph (1) which
3 is not a multiple of \$5,000 shall be rounded to
4 the next lowest multiple of \$5,000.

5 “(B) \$40,000 AMOUNT.—Any increase
6 under subparagraph (C) of paragraph (1) which
7 is not a multiple of \$1,000 shall be rounded to
8 the next lowest multiple of \$1,000.”.

9 (h) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to years beginning after December 31,
11 2000.

12 **SEC. 1322. PLAN LOANS FOR SUBCHAPTER S OWNERS,**
13 **PARTNERS, AND SOLE PROPRIETORS.**

14 (a) *AMENDMENT TO 1986 CODE.*—Subparagraph (B)
15 of section 4975(f)(6) (relating to exemptions not to apply
16 to certain transactions) is amended by adding at the end
17 the following new clause:

18 “(iii) *LOAN EXCEPTION.*—For purposes
19 of subparagraph (A)(i), the term ‘owner-em-
20 ployee’ shall only include a person described
21 in subclause (II) or (III) of clause (i).”.

22 (b) *AMENDMENT TO ERISA.*—Section 408(d)(2) of the
23 Employee Retirement Income Security Act of 1974 (29
24 U.S.C. 1108(d)(2)) is amended by adding at the end the
25 following new subparagraph:

1 “(C) For purposes of paragraph (1)(A), the term
2 ‘owner-employee’ shall only include a person described in
3 clause (ii) or (iii) of subparagraph (A).”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to loans made after December 31, 2000.

6 **SEC. 1323. MODIFICATION OF TOP-HEAVY RULES.**

7 (a) *SIMPLIFICATION OF DEFINITION OF KEY EM-*
8 *PLOYEE.*—

9 (1) *IN GENERAL.*—Section 416(i)(1)(A) (defining
10 *key employee*) is amended—

11 (A) by striking “or any of the 4 preceding
12 *plan years*” in the matter preceding clause (i),

13 (B) by striking clause (i) and inserting the
14 *following:*

15 “(i) an officer of the employer having
16 *an annual compensation greater than*
17 *\$150,000,”*

18 (C) by striking clause (ii) and redesignating
19 *clauses (iii) and (iv) as clauses (ii) and*
20 *(iii), respectively, and*

21 (D) by striking the second sentence in the
22 *matter following clause (iii), as redesignated by*
23 *subparagraph (C).*

1 (2) *CONFORMING AMENDMENT.—Section*
2 *416(i)(1)(B)(iii) is amended by striking “and sub-*
3 *paragraph (A)(ii)”.*

4 **(b) MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT**
5 **FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section**
6 *416(c)(2)(A) (relating to defined contribution plans) is*
7 *amended by adding at the end the following: “Employer*
8 *matching contributions (as defined in section*
9 *401(m)(4)(A)) shall be taken into account for purposes of*
10 *this subparagraph.”.*

11 **(c) DISTRIBUTIONS DURING LAST YEAR BEFORE DE-**
12 **TERMINATION DATE TAKEN INTO ACCOUNT.—**

13 (1) *IN GENERAL.—Paragraph (3) of section*
14 *416(g) is amended to read as follows:*

15 “*(3) DISTRIBUTIONS DURING LAST YEAR BEFORE*
16 *DETERMINATION DATE TAKEN INTO ACCOUNT.—*

17 “*(A) IN GENERAL.—For purposes of*
18 *determining—*

19 “*(i) the present value of the cumulative*
20 *accrued benefit for any employee, or*

21 “*(ii) the amount of the account of any*
22 *employee,*

23 *such present value or amount shall be increased*
24 *by the aggregate distributions made with respect*
25 *to such employee under the plan during the 1-*

1 year period ending on the determination date.
 2 The preceding sentence shall also apply to dis-
 3 tributions under a terminated plan which if it
 4 had not been terminated would have been re-
 5 quired to be included in an aggregation group.

6 “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-
 7 ICE DISTRIBUTION.—In the case of any distribu-
 8 tion made for a reason other than separation
 9 from service, death, or disability, subparagraph
 10 (A) shall be applied by substituting ‘5-year pe-
 11 riod’ for ‘1-year period’.”

12 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—Sub-
 13 paragraph (E) of section 416(g)(4) is amended—

14 (A) by striking “LAST 5 YEARS” in the
 15 heading and inserting “LAST YEAR BEFORE DE-
 16 TERMINATION DATE”, and

17 (B) by striking “5-year period” and insert-
 18 ing “1-year period”.

19 (d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph
 20 (4) of section 416(g) (relating to other special rules for top-
 21 heavy plans) is amended by adding at the end the following
 22 new subparagraph:

23 “(H) CASH OR DEFERRED ARRANGEMENTS
 24 USING ALTERNATIVE METHODS OF MEETING NON-
 25 DISCRIMINATION REQUIREMENTS.—The term

1 ‘top-heavy plan’ shall not include a plan which
2 consists solely of—

3 “(i) a cash or deferred arrangement
4 which meets the requirements of section
5 401(k)(12), and

6 “(ii) matching contributions with re-
7 spect to which the requirements of section
8 401(m)(11) are met.

9 If, but for this subparagraph, a plan would be
10 treated as a top-heavy plan because it is a mem-
11 ber of an aggregation group which is a top-heavy
12 group, contributions under the plan may be
13 taken into account in determining whether any
14 other plan in the group meets the requirements
15 of subsection (c)(2).”.

16 (e) *FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT*
17 *REQUIREMENT.*—Subparagraph (C) of section 416(c)(1)
18 (relating to defined benefit plans) is amended—

19 (A) by striking “clause (ii)” in clause (i)
20 and inserting “clause (ii) or (iii)”, and

21 (B) by adding at the end the following:

22 “(iii) *EXCEPTION FOR FROZEN*
23 *PLAN.*—For purposes of determining an em-
24 ployee’s years of service with the employer,
25 any service with the employer shall be dis-

1 *regarded to the extent that such service oc-*
2 *curs during a plan year when the plan ben-*
3 *efits (within the meaning of section 410(b))*
4 *no employee or former employee.”.*

5 *(f) ELIMINATION OF FAMILY ATTRIBUTION.—Section*
6 *416(i)(1)(B) (defining 5-percent owner) is amended by add-*
7 *ing at the end the following new clause:*

8 *“(iv) FAMILY ATTRIBUTION DIS-*
9 *REGARDED.—Solely for purposes of apply-*
10 *ing this paragraph (and not for purposes of*
11 *any provision of this title which incor-*
12 *porates by reference the definition of a key*
13 *employee or 5-percent owner under this*
14 *paragraph), section 318 shall be applied*
15 *without regard to subsection (a)(1) thereof*
16 *in determining whether any person is a 5-*
17 *percent owner.”.*

18 *(g) EFFECTIVE DATE.—The amendments made by this*
19 *section shall apply to years beginning after December 31,*
20 *2000.*

21 **SEC. 1324. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**
22 **COUNT FOR PURPOSES OF DEDUCTION LIM-**
23 **ITS.**

24 *(a) IN GENERAL.—Section 404 (relating to deduction*
25 *for contributions of an employer to an employees’ trust or*

1 annuity plan and compensation under a deferred payment
 2 plan) is amended by adding at the end the following new
 3 subsection:

4 “(n) *ELECTIVE DEFERRALS NOT TAKEN INTO AC-*
 5 *COUNT FOR PURPOSES OF DEDUCTION LIMITS.*—*Elective*
 6 *deferrals (as defined in section 402(g)(3)) shall not be sub-*
 7 *ject to any limitation contained in paragraph (3), (7), or*
 8 *(9) of subsection (a), and such elective deferrals shall not*
 9 *be taken into account in applying any such limitation to*
 10 *any other contributions.”.*

11 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 12 *section shall apply to years beginning after December 31,*
 13 *2000.*

14 **SEC. 1325. REPEAL OF COORDINATION REQUIREMENTS FOR**
 15 **DEFERRED COMPENSATION PLANS OF STATE**
 16 **AND LOCAL GOVERNMENTS AND TAX-EXEMPT**
 17 **ORGANIZATIONS.**

18 (a) *IN GENERAL.*—*Subsection (c) of section 457 (relat-*
 19 *ing to deferred compensation plans of State and local gov-*
 20 *ernments and tax-exempt organizations), as amended by*
 21 *section 1321, is amended to read as follows:*

22 “(c) *LIMITATION.*—*The maximum amount of the com-*
 23 *ensation of any one individual which may be deferred*
 24 *under subsection (a) during any taxable year shall not ex-*
 25 *ceed the amount in effect under subsection (b)(2)(A) (as*

1 *modified by any adjustment provided under subsection*
2 *(b)(3)).”.*

3 *(b) EFFECTIVE DATE.—The amendment made by sub-*
4 *section (a) shall apply to years beginning after December*
5 *31, 2000.*

6 **SEC. 1326. ELIMINATION OF USER FEE FOR REQUESTS TO**
7 **IRS REGARDING PENSION PLANS.**

8 *(a) ELIMINATION OF CERTAIN USER FEES.—The Sec-*
9 *retary of the Treasury or the Secretary’s delegate shall not*
10 *require payment of user fees under the program established*
11 *under section 7527 of the Internal Revenue Code of 1986*
12 *for requests to the Internal Revenue Service for determina-*
13 *tion letters with respect to the qualified status of a pension*
14 *benefit plan maintained solely by one or more eligible em-*
15 *ployers or any trust which is part of the plan. The pre-*
16 *ceding sentence shall not apply to any request—*

17 *(1) made after the 5th plan year the pension*
18 *benefit plan is in existence, or*

19 *(2) made by the sponsor of any prototype or*
20 *similar plan which the sponsor intends to market to*
21 *participating employers.*

22 *(b) PENSION BENEFIT PLAN.—For purposes of this*
23 *section, the term “pension benefit plan” means a pension,*
24 *profit-sharing, stock bonus, annuity, or employee stock own-*
25 *ership plan.*

1 (c) *ELIGIBLE EMPLOYER.*—For purposes of this sec-
2 tion, the term “eligible employer” has the same meaning
3 given such term in section 408(p)(2)(C)(i)(I) of the Internal
4 Revenue Code of 1986. The determination of whether an em-
5 ployer is an eligible employer under this section shall be
6 made as of the date of the request described in subsection
7 (a).

8 (d) *EFFECTIVE DATE.*—The provisions of this section
9 shall apply with respect to requests made after December
10 31, 2000.

11 **SEC. 1327. DEDUCTION LIMITS.**

12 (a) *IN GENERAL.*—Section 404(a) (relating to general
13 rule) is amended by adding at the end the following:

14 “(12) *DEFINITION OF COMPENSATION.*—For pur-
15 poses of paragraphs (3), (7), (8), and (9), the term
16 ‘compensation’ shall include amounts treated as par-
17 ticipant’s compensation under subparagraph (C) or
18 (D) of section 415(c)(3).”.

19 (b) *CONFORMING AMENDMENT.*—Subparagraph (B) of
20 section 404(a)(3) is amended by striking the last sentence
21 thereof.

22 (c) *EFFECTIVE DATE.*—The amendments made by this
23 section shall apply to years beginning after December 31,
24 2000.

1 **SEC. 1328. OPTION TO TREAT ELECTIVE DEFERRALS AS**
2 **AFTER-TAX CONTRIBUTIONS.**

3 (a) *IN GENERAL.*—Subpart A of part I of subchapter
4 D of chapter 1 (relating to deferred compensation, etc.) is
5 amended by inserting after section 402 the following new
6 section:

7 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**
8 **RALS AS PLUS CONTRIBUTIONS.**

9 “(a) *GENERAL RULE.*—If an applicable retirement
10 plan includes a qualified plus contribution program—

11 “(1) any designated plus contribution made by
12 an employee pursuant to the program shall be treated
13 as an elective deferral for purposes of this chapter, ex-
14 cept that such contribution shall not be excludable
15 from gross income, and

16 “(2) such plan (and any arrangement which is
17 part of such plan) shall not be treated as failing to
18 meet any requirement of this chapter solely by reason
19 of including such program.

20 “(b) *QUALIFIED PLUS CONTRIBUTION PROGRAM.*—
21 For purposes of this section—

22 “(1) *IN GENERAL.*—The term ‘qualified plus con-
23 tribution program’ means a program under which an
24 employee may elect to make designated plus contribu-
25 tions in lieu of all or a portion of elective deferrals

1 *the employee is otherwise eligible to make under the*
2 *applicable retirement plan.*

3 “(2) *SEPARATE ACCOUNTING REQUIRED.*—*A pro-*
4 *gram shall not be treated as a qualified plus contribu-*
5 *tion program unless the applicable retirement plan—*

6 “(A) *establishes separate accounts (‘des-*
7 *ignated plus accounts’) for the designated plus*
8 *contributions of each employee and any earnings*
9 *properly allocable to the contributions, and*

10 “(B) *maintains separate recordkeeping with*
11 *respect to each account.*

12 “(c) *DEFINITIONS AND RULES RELATING TO DES-*
13 *IGNATED PLUS CONTRIBUTIONS.*—*For purposes of this*
14 *section—*

15 “(1) *DESIGNATED PLUS CONTRIBUTION.*—*The*
16 *term ‘designated plus contribution’ means any elec-*
17 *tive deferral which—*

18 “(A) *is excludable from gross income of an*
19 *employee without regard to this section, and*

20 “(B) *the employee designates (at such time*
21 *and in such manner as the Secretary may pre-*
22 *scribe) as not being so excludable.*

23 “(2) *DESIGNATION LIMITS.*—*The amount of elec-*
24 *tive deferrals which an employee may designate under*
25 *paragraph (1) shall not exceed the excess (if any) of—*

1 “(A) *the maximum amount of elective deferrals*
2 *excludable from gross income of the employee*
3 *for the taxable year (without regard to this sec-*
4 *tion), over*

5 “(B) *the aggregate amount of elective deferrals*
6 *of the employee for the taxable year which*
7 *the employee does not designate under paragraph*
8 *(1).*

9 “(3) *ROLLOVER CONTRIBUTIONS.—*

10 “(A) *IN GENERAL.—A rollover contribution*
11 *of any payment or distribution from a des-*
12 *ignated plus account which is otherwise allow-*
13 *able under this chapter may be made only if the*
14 *contribution is to—*

15 “(i) *another designated plus account of*
16 *the individual from whose account the pay-*
17 *ment or distribution was made, or*

18 “(ii) *a Roth IRA of such individual.*

19 “(B) *COORDINATION WITH LIMIT.—Any*
20 *rollover contribution to a designated plus ac-*
21 *count under subparagraph (A) shall not be taken*
22 *into account for purposes of paragraph (1).*

23 “(d) *DISTRIBUTION RULES.—For purposes of this*
24 *title—*

1 “(1) *EXCLUSION.*—*Any qualified distribution*
2 *from a designated plus account shall not be includible*
3 *in gross income.*

4 “(2) *QUALIFIED DISTRIBUTION.*—*For purposes*
5 *of this subsection—*

6 “(A) *IN GENERAL.*—*The term ‘qualified dis-*
7 *tribution’ has the meaning given such term by*
8 *section 408A(d)(2)(A) (without regard to clause*
9 *(iv) thereof).*

10 “(B) *DISTRIBUTIONS WITHIN NONEXCLU-*
11 *SION PERIOD.*—*A payment or distribution from*
12 *a designated plus account shall not be treated as*
13 *a qualified distribution if such payment or dis-*
14 *tribution is made within the 5-taxable-year pe-*
15 *riod beginning with the earlier of—*

16 “(i) *the first taxable year for which the*
17 *individual made a designated plus con-*
18 *tribution to any designated plus account es-*
19 *tablished for such individual under the*
20 *same applicable retirement plan, or*

21 “(ii) *if a rollover contribution was*
22 *made to such designated plus account from*
23 *a designated plus account previously estab-*
24 *lished for such individual under another*
25 *applicable retirement plan, the first taxable*

1 *year for which the individual made a des-*
2 *ignated plus contribution to such previously*
3 *established account.*

4 “(C) *DISTRIBUTIONS OF EXCESS DEFER-*
5 *RALS AND EARNINGS.*—*The term ‘qualified dis-*
6 *tribution’ shall not include any distribution of*
7 *any excess deferral under section 402(g)(2) and*
8 *any income on the excess deferral.*

9 “(3) *AGGREGATION RULES.*—*Section 72 shall be*
10 *applied separately with respect to distributions and*
11 *payments from a designated plus account and other*
12 *distributions and payments from the plan.*

13 “(e) *OTHER DEFINITIONS.*—*For purposes of this*
14 *section—*

15 “(1) *APPLICABLE RETIREMENT PLAN.*—*The term*
16 *‘applicable retirement plan’ means—*

17 “(A) *an employees’ trust described in sec-*
18 *tion 401(a) which is exempt from tax under sec-*
19 *tion 501(a), and*

20 “(B) *a plan under which amounts are con-*
21 *tributed by an individual’s employer for an an-*
22 *nuity contract described in section 403(b).*

23 “(2) *ELECTIVE DEFERRAL.*—*The term ‘elective*
24 *deferral’ means any elective deferral described in sub-*
25 *paragraph (A) or (C) of section 402(g)(3).”.*

1 (b) *EXCESS DEFERRALS*.—Section 402(g) (relating to
2 limitation on exclusion for elective deferrals) is amended—

3 (1) by adding at the end of paragraph (1) the
4 following new sentence: “The preceding sentence shall
5 not apply to so much of such excess as does not exceed
6 the designated plus contributions of the individual for
7 the taxable year.”, and

8 (2) by inserting “(or would be included but for
9 the last sentence thereof)” after “paragraph (1)” in
10 paragraph (2)(A).

11 (c) *ROLLOVERS*.—Subparagraph (B) of section
12 402(c)(8) is amended by adding at the end the following:

13 “If any portion of an eligible rollover distribu-
14 tion is attributable to payments or distributions
15 from a designated plus account (as defined in
16 section 402A), an eligible retirement plan with
17 respect to such portion shall include only another
18 designated plus account and a Roth IRA.”.

19 (d) *REPORTING REQUIREMENTS*.—

20 (1) *W-2 INFORMATION*.—Section 6051(a)(8) is
21 amended by inserting “, including the amount of des-
22 ignated plus contributions (as defined in section
23 402A)” before the comma at the end.

24 (2) *INFORMATION*.—Section 6047 is amended by
25 redesignating subsection (f) as subsection (g) and by

1 *inserting after subsection (e) the following new sub-*
2 *section:*

3 “(f) *DESIGNATED PLUS CONTRIBUTIONS.*—*The Sec-*
4 *retary shall require the plan administrator of each applica-*
5 *ble retirement plan (as defined in section 402A) to make*
6 *such returns and reports regarding designated plus con-*
7 *tributions (as so defined) to the Secretary, participants and*
8 *beneficiaries of the plan, and such other persons as the Sec-*
9 *retary may prescribe.”.*

10 (e) *CONFORMING AMENDMENTS.*—

11 (1) *Section 408A(e) is amended by adding after*
12 *the first sentence the following new sentence: “Such*
13 *term includes a rollover contribution described in sec-*
14 *tion 402A(c)(3)(A).”.*

15 (2) *The table of sections for subpart A of part I*
16 *of subchapter D of chapter 1 is amended by inserting*
17 *after the item relating to section 402 the following*
18 *new item:*

 “*Sec. 402A. Optional treatment of elective deferrals as plus contributions.*”.

19 (f) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to taxable years beginning after Decem-*
21 *ber 31, 2000.*

1 **PART II—ENHANCING FAIRNESS FOR WOMEN**

2 **SEC. 1331. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS**

3 **AGE 50 OR OVER.**

4 (a) *IN GENERAL.*—Section 414 (relating to definitions
5 and special rules) is amended by adding at the end the fol-
6 lowing new subsection:

7 “(v) *CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE*
8 *50 OR OVER.*—

9 “(1) *IN GENERAL.*—An applicable employer plan
10 shall not be treated as failing to meet any require-
11 ment of this title solely because the plan permits an
12 eligible participant to make additional elective deferr-
13 als in any plan year.

14 “(2) *LIMITATION ON AMOUNT OF ADDITIONAL*
15 *DEFERRALS.*—

16 “(A) *IN GENERAL.*—A plan shall not permit
17 additional elective deferrals under paragraph (1)
18 for any year in an amount greater than the less-
19 er of—

20 “(i) the applicable percentage of the
21 applicable dollar amount for such elective
22 deferrals for such year, or

23 “(ii) the excess (if any) of—

24 “(I) the participant’s compensa-
25 tion for the year, over

1 “(II) any other elective deferrals
 2 of the participant for such year which
 3 are made without regard to this sub-
 4 section.

5 “(B) APPLICABLE PERCENTAGE.—For pur-
 6 poses of this paragraph, the applicable percent-
 7 age shall be determined in accordance with the
 8 following table:

“For taxable years beginning in:	The applicable percentage is:
2001	10 percent
2002	20 percent
2003	30 percent
2004	40 percent
2005 and thereafter	50 percent.

9 “(3) TREATMENT OF CONTRIBUTIONS.—In the
 10 case of any contribution to a plan under paragraph
 11 (1)—

12 “(A) such contribution shall not, with re-
 13 spect to the year in which the contribution is
 14 made—

15 “(i) be subject to any otherwise appli-
 16 cable limitation contained in section 402(g),
 17 402(h), 403(b), 404(a), 404(h), 408, 415, or
 18 457, or

19 “(ii) be taken into account in applying
 20 such limitations to other contributions or
 21 benefits under such plan or any other such
 22 plan, and

1 “(B) such plan shall not be treated as fail-
2 ing to meet the requirements of section 401(a)(4),
3 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),
4 401(m), 403(b)(12), 408(k), 408(p), 408B,
5 410(b), or 416 by reason of the making of (or the
6 right to make) such contribution.

7 “(4) *ELIGIBLE PARTICIPANT.*—For purposes of
8 this subsection, the term ‘eligible participant’ means,
9 with respect to any plan year, a participant in a
10 plan—

11 “(A) who has attained the age of 50 before
12 the close of the plan year, and

13 “(B) with respect to whom no other elective
14 deferrals may (without regard to this subsection)
15 be made to the plan for the plan year by reason
16 of the application of any limitation or other re-
17 striction described in paragraph (3) or contained
18 in the terms of the plan.

19 “(5) *OTHER DEFINITIONS AND RULES.*—For
20 purposes of this subsection—

21 “(A) *APPLICABLE DOLLAR AMOUNT.*—The
22 term ‘applicable dollar amount’ means, with re-
23 spect to any year, the amount in effect under
24 section 402(g)(1)(B), 408(p)(2)(E)(i), or

1 457(e)(15)(A), whichever is applicable to an ap-
2 plicable employer plan, for such year.

3 “(B) *APPLICABLE EMPLOYER PLAN.*—The
4 term ‘applicable employer plan’ means—

5 “(i) an employees’ trust described in
6 section 401(a) which is exempt from tax
7 under section 501(a),

8 “(ii) a plan under which amounts are
9 contributed by an individual’s employer for
10 an annuity contract described in section
11 403(b),

12 “(iii) an eligible deferred compensation
13 plan under section 457 of an eligible em-
14 ployer as defined in section 457(e)(1)(A),
15 and

16 “(iv) an arrangement meeting the re-
17 quirements of section 408 (k) or (p).

18 “(C) *ELECTIVE DEFERRAL.*—The term ‘elec-
19 tive deferral’ has the meaning given such term
20 by subsection (u)(2)(C).

21 “(D) *EXCEPTION FOR SECTION 457 PLANS.*—
22 This subsection shall not apply to an applicable
23 employer plan described in subparagraph
24 (B)(iii) for any year to which section 457(b)(3)
25 applies.”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to contributions in taxable years begin-*
3 *ning after December 31, 2000.*

4 **SEC. 1332. EQUITABLE TREATMENT FOR CONTRIBUTIONS**
5 **OF EMPLOYEES TO DEFINED CONTRIBUTION**
6 **PLANS.**

7 (a) *EQUITABLE TREATMENT.*—

8 (1) *IN GENERAL.*—*Subparagraph (B) of section*
9 *415(c)(1) (relating to limitation for defined contribu-*
10 *tion plans) is amended by striking “25 percent” and*
11 *inserting “100 percent”.*

12 (2) *APPLICATION TO SECTION 403(b).*—*Section*
13 *403(b) is amended—*

14 (A) *by striking “the exclusion allowance for*
15 *such taxable year” in paragraph (1) and insert-*
16 *ing “the applicable limit under section 415”,*

17 (B) *by striking paragraph (2), and*

18 (C) *by inserting “or any amount received*
19 *by a former employee after the 5th taxable year*
20 *following the taxable year in which such em-*
21 *ployee was terminated” before the period at the*
22 *end of the second sentence of paragraph (3).*

23 (3) *CONFORMING AMENDMENTS.*—

24 (A) *Subsection (f) of section 72 is amended*
25 *by striking “section 403(b)(2)(D)(iii)” and in-*

1 serting “section 403(b)(2)(D)(iii), as in effect be-
2 fore the enactment of the Taxpayer Refund and
3 Relief Act of 1999”.

4 (B) Section 404(a)(10)(B) is amended by
5 striking “, the exclusion allowance under section
6 403(b)(2),”.

7 (C) Section 415(a)(2) is amended by strik-
8 ing “, and the amount of the contribution for
9 such portion shall reduce the exclusion allowance
10 as provided in section 403(b)(2)”.

11 (D) Section 415(c)(3) is amended by adding
12 at the end the following new subparagraph:

13 “(E) ANNUITY CONTRACTS.—In the case of
14 an annuity contract described in section 403(b),
15 the term ‘participant’s compensation’ means the
16 participant’s includible compensation deter-
17 mined under section 403(b)(3).”.

18 (E) Section 415(c) is amended by striking
19 paragraph (4).

20 (F) Section 415(c)(7) is amended to read as
21 follows:

22 “(7) CERTAIN CONTRIBUTIONS BY CHURCH
23 PLANS NOT TREATED AS EXCEEDING LIMIT.—

24 “(A) IN GENERAL.—Notwithstanding any
25 other provision of this subsection, at the election

1 *of a participant who is an employee of a church*
2 *or a convention or association of churches, in-*
3 *cluding an organization described in section*
4 *414(e)(3)(B)(ii), contributions and other addi-*
5 *tions for an annuity contract or retirement in-*
6 *come account described in section 403(b) with re-*
7 *spect to such participant, when expressed as an*
8 *annual addition to such participant's account,*
9 *shall be treated as not exceeding the limitation*
10 *of paragraph (1) if such annual addition is not*
11 *in excess of \$10,000.*

12 “(B) \$40,000 AGGREGATE LIMITATION.—
13 *The total amount of additions with respect to*
14 *any participant which may be taken into ac-*
15 *count for purposes of this subparagraph for all*
16 *years may not exceed \$40,000.*

17 “(C) ANNUAL ADDITION.—*For purposes of*
18 *this paragraph, the term ‘annual addition’ has*
19 *the meaning given such term by paragraph (2).”.*

20 “(G) Subparagraph (B) of section 402(g)(7)
21 *(as redesignated by section 1201) is amended by*
22 *inserting before the period at the end the fol-*
23 *lowing: “(as in effect before the enactment of the*
24 *Taxpayer Refund and Relief Act of 1999)”.*

1 (3) *EFFECTIVE DATE.*—*The amendments made*
2 *by this subsection shall apply to years beginning after*
3 *December 31, 2000.*

4 (b) *SPECIAL RULES FOR SECTIONS 403(b) AND 408.*—

5 (1) *IN GENERAL.*—*Subsection (k) of section 415*
6 *is amended by adding at the end the following new*
7 *paragraph:*

8 “*(4) SPECIAL RULES FOR SECTIONS 403(b) AND*
9 *408.—For purposes of this section, any annuity con-*
10 *tract described in section 403(b) for the benefit of a*
11 *participant shall be treated as a defined contribution*
12 *plan maintained by each employer with respect to*
13 *which the participant has the control required under*
14 *subsection (b) or (c) of section 414 (as modified by*
15 *subsection (h)). For purposes of this section, any con-*
16 *tribution by an employer to a simplified employee*
17 *pension plan for an individual for a taxable year*
18 *shall be treated as an employer contribution to a de-*
19 *defined contribution plan for such individual for such*
20 *year.”.*

21 (2) *EFFECTIVE DATE.*—

22 (A) *IN GENERAL.*—*The amendment made*
23 *by paragraph (1) shall apply to limitation years*
24 *beginning after December 31, 1999.*

1 (B) *EXCLUSION ALLOWANCE.*—Effective for
2 *limitation years beginning in 2000, in the case*
3 *of any annuity contract described in section*
4 *403(b) of the Internal Revenue Code of 1986, the*
5 *amount of the contribution disqualified by rea-*
6 *son of section 415(g) of such Code shall reduce*
7 *the exclusion allowance as provided in section*
8 *403(b)(2) of such Code.*

9 (3) *MODIFICATION OF 403(b) EXCLUSION ALLOW-*
10 *ANCE TO CONFORM TO 415 MODIFICATION.*—The Sec-
11 *retary of the Treasury shall modify the regulations re-*
12 *garding the exclusion allowance under section*
13 *403(b)(2) of the Internal Revenue Code of 1986 to*
14 *render void the requirement that contributions to a*
15 *defined benefit pension plan be treated as previously*
16 *excluded amounts for purposes of the exclusion allow-*
17 *ance. For taxable years beginning after December 31,*
18 *1999, such regulations shall be applied as if such re-*
19 *quirement were void.*

20 (c) *DEFERRED COMPENSATION PLANS OF STATE AND*
21 *LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZA-*
22 *TIONS.*—

23 (1) *IN GENERAL.*—Subparagraph (B) of section
24 457(b)(2) (relating to salary limitation on eligible de-

1 ferred compensation plans) is amended by striking
 2 “33¹/₃ percent” and inserting “100 percent”.

3 (2) *EFFECTIVE DATE.*—The amendment made by
 4 this subsection shall apply to years beginning after
 5 December 31, 2000.

6 **SEC. 1333. FASTER VESTING OF CERTAIN EMPLOYER**
 7 **MATCHING CONTRIBUTIONS.**

8 (a) *AMENDMENTS TO 1986 CODE.*—Section 411(a) (re-
 9 lating to minimum vesting standards) is amended—

10 (1) in paragraph (2), by striking “A plan” and
 11 inserting “Except as provided in paragraph (12), a
 12 plan”, and

13 (2) by adding at the end the following:

14 “(12) *FASTER VESTING FOR MATCHING CON-*
 15 *TRIBUTIONS.*—In the case of matching contributions
 16 (as defined in section 401(m)(4)(A)), paragraph (2)
 17 shall be applied—

18 “(A) by substituting ‘3 years’ for ‘5 years’
 19 in subparagraph (A), and

20 “(B) by substituting the following table for
 21 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”.

1 (b) *AMENDMENTS TO ERISA.*—Section 203(a) of the
 2 *Employee Retirement Income Security Act of 1974* (29
 3 *U.S.C. 1053(a)*) is amended—

4 (1) in paragraph (2), by striking “A plan” and
 5 inserting “Except as provided in paragraph (4), a
 6 plan”, and

7 (2) by adding at the end the following:

8 “(4) *FASTER VESTING FOR MATCHING CONTRIBU-*
 9 *TIONS.*—In the case of matching contributions (as de-
 10 fined in section 401(m)(4)(A) of the Internal Revenue
 11 Code of 1986), paragraph (2) shall be applied—

12 “(A) by substituting ‘3 years’ for ‘5 years’
 13 in subparagraph (A), and

14 “(B) by substituting the following table for
 15 the table contained in subparagraph (B):

“Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.”.

16 (c) *EFFECTIVE DATES.*—

17 (1) *IN GENERAL.*—Except as provided in para-
 18 graph (2), the amendments made by this section shall
 19 apply to contributions for plan years beginning after
 20 December 31, 2000.

21 (2) *COLLECTIVE BARGAINING AGREEMENTS.*—In
 22 the case of a plan maintained pursuant to one or

1 *more collective bargaining agreements between em-*
2 *ployee representatives and one or more employers*
3 *ratified by the date of the enactment of this Act, the*
4 *amendments made by this section shall not apply to*
5 *contributions on behalf of employees covered by any*
6 *such agreement for plan years beginning before the*
7 *earlier of—*

8 *(A) the later of—*

9 *(i) the date on which the last of such*
10 *collective bargaining agreements terminates*
11 *(determined without regard to any exten-*
12 *sion thereof on or after such date of the en-*
13 *actment), or*

14 *(ii) January 1, 2001, or*

15 *(B) January 1, 2005.*

16 *(3) SERVICE REQUIRED.—With respect to any*
17 *plan, the amendments made by this section shall not*
18 *apply to any employee before the date that such em-*
19 *ployee has 1 hour of service under such plan in any*
20 *plan year to which the amendments made by this sec-*
21 *tion apply.*

22 **SEC. 1334. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBU-**
23 **TION RULES.**

24 *(a) SIMPLIFICATION AND FINALIZATION OF MINIMUM*
25 *DISTRIBUTION REQUIREMENTS.—*

1 (1) *IN GENERAL.*—*The Secretary of the Treasury*
2 *shall—*

3 (A) *simplify and finalize the regulations re-*
4 *lating to minimum distribution requirements*
5 *under sections 401(a)(9), 408(a)(6) and (b)(3),*
6 *403(b)(10), and 457(d)(2) of the Internal Rev-*
7 *enue Code of 1986, and*

8 (B) *modify such regulations to—*

9 (i) *reflect current life expectancy, and*

10 (ii) *revise the required distribution*
11 *methods so that, under reasonable assump-*
12 *tions, the amount of the required minimum*
13 *distribution does not decrease over a par-*
14 *ticipant's life expectancy.*

15 (2) *FRESH START.*—*Notwithstanding subpara-*
16 *graph (D) of section 401(a)(9) of such Code, during*
17 *the first year that regulations are in effect under this*
18 *subsection, required distributions for future years*
19 *may be redetermined to reflect changes under such*
20 *regulations. Such redetermination shall include the*
21 *opportunity to choose a new designated beneficiary*
22 *and to elect a new method of calculating life expect-*
23 *ancy.*

24 (3) *EFFECTIVE DATE FOR REGULATIONS.*—*Regu-*
25 *lations referred to in paragraph (1) shall be effective*

1 for years beginning after December 31, 2000, and
2 shall apply in such years without regard to whether
3 an individual had previously begun receiving min-
4 imum distributions.

5 (b) *REPEAL OF RULE WHERE DISTRIBUTIONS HAD*
6 *BEGUN BEFORE DEATH OCCURS.—*

7 (1) *IN GENERAL.—*Subparagraph (B) of section
8 401(a)(9) is amended by striking clause (i) and redес-
9 ignating clauses (ii), (iii), and (iv) as clauses (i),
10 (ii), and (iii), respectively.

11 (2) *CONFORMING CHANGES.—*

12 (A) Clause (i) of section 401(a)(9)(B) (as so
13 redesignated) is amended—

14 (i) by striking “FOR OTHER CASES” in
15 the heading, and

16 (ii) by striking “the distribution of the
17 employee’s interest has begun in accordance
18 with subparagraph (A)(ii)” and inserting
19 “his entire interest has been distributed to
20 him,”.

21 (B) Clause (ii) of section 401(a)(9)(B) (as
22 so redesignated) is amended by striking “clause
23 (ii)” and inserting “clause (i)”.

24 (C) Clause (iii) of section 401(a)(9)(B) (as
25 so redesignated) is amended—

1 (i) by striking “clause (iii)(I)” and in-
2 serting “clause (ii)(I)”,

3 (ii) by striking “clause (iii)(III)” in
4 subclause (I) and inserting “clause
5 (ii)(III)”,

6 (iii) by striking “the date on which the
7 employee would have attained the age
8 70¹/₂,” in subclause (I) and inserting “April
9 1 of the calendar year following the cal-
10 endar year in which the spouse attains
11 70¹/₂,” and

12 (iv) by striking “the distributions to
13 such spouse begin,” in subclause (II) and
14 inserting “his entire interest has been dis-
15 tributed to him,”.

16 (3) *EFFECTIVE DATE.*—The amendments made
17 by this subsection shall apply to years beginning after
18 December 31, 2000.

19 (c) *REDUCTION IN EXCISE TAX.*—

20 (1) *IN GENERAL.*—Subsection (a) of section 4974
21 is amended by striking “50 percent” and inserting
22 “10 percent”.

23 (2) *EFFECTIVE DATE.*—The amendment made by
24 this subsection shall apply to years beginning after
25 December 31, 2000.

1 **SEC. 1335. CLARIFICATION OF TAX TREATMENT OF DIVI-**
2 **SION OF SECTION 457 PLAN BENEFITS UPON**
3 **DIVORCE.**

4 (a) *IN GENERAL.*—Section 414(p)(11) (relating to ap-
5 plication of rules to governmental and church plans) is
6 amended—

7 (1) by inserting “or an eligible deferred com-
8 pensation plan (within the meaning of section
9 457(b))” after “subsection (e)”, and

10 (2) in the heading, by striking “GOVERNMENTAL
11 AND CHURCH PLANS” and inserting “CERTAIN OTHER
12 PLANS”.

13 (b) *WAIVER OF CERTAIN DISTRIBUTION REQUIRE-*
14 *MENTS.*—Paragraph (10) of section 414(p) is amended by
15 striking “and section 409(d)” and inserting “section
16 409(d), and section 457(d)”.

17 (c) *TAX TREATMENT OF PAYMENTS FROM A SECTION*
18 *457 PLAN.*—Subsection (p) of section 414 is amended by
19 redesignating paragraph (12) as paragraph (13) and in-
20 serting after paragraph (11) the following new paragraph:

21 “(12) *TAX TREATMENT OF PAYMENTS FROM A*
22 *SECTION 457 PLAN.*—If a distribution or payment
23 from an eligible deferred compensation plan described
24 in section 457(b) is made pursuant to a qualified do-
25 mestic relations order, rules similar to the rules of

1 *section 402(e)(1)(A) shall apply to such distribution*
2 *or payment.”.*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to transfers, distributions, and pay-*
5 *ments made after December 31, 2000.*

6 **SEC. 1336. MODIFICATION OF SAFE HARBOR RELIEF FOR**
7 **HARDSHIP WITHDRAWALS FROM CASH OR DE-**
8 **FERRED ARRANGEMENTS.**

9 *(a) IN GENERAL.—The Secretary of the Treasury shall*
10 *revise the regulations relating to hardship distributions*
11 *under section 401(k)(2)(B)(i)(IV) of the Internal Revenue*
12 *Code of 1986 to provide that the period an employee is pro-*
13 *hibited from making elective and employee contributions in*
14 *order for a distribution to be deemed necessary to satisfy*
15 *financial need shall be equal to 6 months.*

16 *(b) EFFECTIVE DATE.—The revised regulations under*
17 *subsection (a) shall apply to years beginning after Decem-*
18 *ber 31, 2000.*

19 **PART III—INCREASING PORTABILITY FOR**
20 **PARTICIPANTS**

21 **SEC. 1341. ROLLOVERS ALLOWED AMONG VARIOUS TYPES**
22 **OF PLANS.**

23 *(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—*

24 *(1) ROLLOVERS FROM SECTION 457 PLANS.—*

1 (A) *IN GENERAL.*—Section 457(e) (relating
2 to other definitions and special rules) is amend-
3 ed by adding at the end the following:

4 “(16) *ROLLOVER AMOUNTS.*—

5 “(A) *GENERAL RULE.*—In the case of an el-
6 igible deferred compensation plan established
7 and maintained by an employer described in
8 subsection (e)(1)(A), if—

9 “(i) any portion of the balance to the
10 credit of an employee in such plan is paid
11 to such employee in an eligible rollover dis-
12 tribution (within the meaning of section
13 402(c)(4) without regard to subparagraph
14 (C) thereof),

15 “(ii) the employee transfers any por-
16 tion of the property such employee receives
17 in such distribution to an eligible retire-
18 ment plan described in section 402(c)(8)(B),
19 and

20 “(iii) in the case of a distribution of
21 property other than money, the amount so
22 transferred consists of the property distrib-
23 uted,

1 *then such distribution (to the extent so trans-*
2 *ferred) shall not be includible in gross income for*
3 *the taxable year in which paid.*

4 “(B) *CERTAIN RULES MADE APPLICABLE.—*
5 *The rules of paragraphs (2) through (7) (other*
6 *than paragraph (4)(C)) and (9) of section 402(c)*
7 *and section 402(f) shall apply for purposes of*
8 *subparagraph (A).*”

9 “(C) *REPORTING.—Rollovers under this*
10 *paragraph shall be reported to the Secretary in*
11 *the same manner as rollovers from qualified re-*
12 *tirement plans (as defined in section 4974(c)).”.*

13 “(B) *DEFERRAL LIMIT DETERMINED WITH-*
14 *OUT REGARD TO ROLLOVER AMOUNTS.—Section*
15 *457(b)(2) (defining eligible deferred compensa-*
16 *tion plan) is amended by inserting “(other than*
17 *rollover amounts)” after “taxable year”.*”

18 “(C) *DIRECT ROLLOVER.—Paragraph (1) of*
19 *section 457(d) is amended by striking “and” at*
20 *the end of subparagraph (A), by striking the pe-*
21 *riod at the end of subparagraph (B) and insert-*
22 *ing “, and”, and by inserting after subpara-*
23 *graph (B) the following:*

24 *“(C) in the case of a plan maintained by*
25 *an employer described in subsection (e)(1)(A),*

1 *the plan meets requirements similar to the re-*
2 *quirements of section 401(a)(31).*

3 *Any amount transferred in a direct trustee-to-trustee*
4 *transfer in accordance with section 401(a)(31) shall*
5 *not be includible in gross income for the taxable year*
6 *of transfer.”.*

7 (D) *WITHHOLDING.—*

8 (i) *Paragraph (12) of section 3401(a)*
9 *is amended by adding at the end the fol-*
10 *lowing:*

11 “*(E) under or to an eligible deferred com-*
12 *penetration plan which, at the time of such pay-*
13 *ment, is a plan described in section 457(b)*
14 *maintained by an employer described in section*
15 *457(e)(1)(A); or”.*

16 (ii) *Paragraph (3) of section 3405(c) is*
17 *amended to read as follows:*

18 “*(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For*
19 *purposes of this subsection, the term ‘eligible rollover*
20 *distribution’ has the meaning given such term by sec-*
21 *tion 402(f)(2)(A).”.*

22 (iii) *LIABILITY FOR WITHHOLDING.—*
23 *Subparagraph (B) of section 3405(d)(2) is*
24 *amended by striking “or” at the end of*
25 *clause (ii), by striking the period at the end*

1 of clause (iii) and inserting “, or”, and by
2 adding at the end the following:

3 “(iv) section 457(b).”.

4 (2) *ROLLOVERS TO SECTION 457 PLANS.*—

5 (A) *IN GENERAL.*—Section 402(c)(8)(B)
6 (defining eligible retirement plan) is amended by
7 striking “and” at the end of clause (iii), by
8 striking the period at the end of clause (iv) and
9 inserting “, and”, and by inserting after clause
10 (iv) the following new clause:

11 “(v) an eligible deferred compensation
12 plan described in section 457(b) of an em-
13 ployer described in section 457(e)(1)(A).”.

14 (B) *SEPARATE ACCOUNTING.*—Section
15 402(c) is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(11) *SEPARATE ACCOUNTING.*—Unless a plan
18 described in clause (v) of paragraph (8)(B) agrees to
19 separately account for amounts rolled into such plan
20 from eligible retirement plans not described in such
21 clause, the plan described in such clause may not ac-
22 cept transfers or rollovers from such retirement
23 plans.”.

24 (C) *10 PERCENT ADDITIONAL TAX.*—Sub-
25 section (t) of section 72 (relating to 10-percent

1 *additional tax on early distributions from quali-*
 2 *fied retirement plans) is amended by adding at*
 3 *the end the following new paragraph:*

4 “(9) *SPECIAL RULE FOR ROLLOVERS TO SECTION*
 5 *457 PLANS.—For purposes of this subsection, a dis-*
 6 *tribution from an eligible deferred compensation plan*
 7 *(as defined in section 457(b)) of an employer de-*
 8 *scribed in section 457(e)(1)(A) shall be treated as a*
 9 *distribution from a qualified retirement plan de-*
 10 *scribed in 4974(c)(1) to the extent that such distribu-*
 11 *tion is attributable to an amount transferred to an el-*
 12 *igible deferred compensation plan from a qualified re-*
 13 *irement plan (as defined in section 4974(c)).”.*

14 **(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403 (b)**
 15 **PLANS.—**

16 **(1) ROLLOVERS FROM SECTION 403 (b) PLANS.—**
 17 *Section 403(b)(8)(A)(ii) (relating to rollover*
 18 *amounts) is amended by striking “such distribution”*
 19 *and all that follows and inserting “such distribution*
 20 *to an eligible retirement plan described in section*
 21 *402(c)(8)(B), and”.*

22 **(2) ROLLOVERS TO SECTION 403 (b) PLANS.—***Sec-*
 23 *tion 402(c)(8)(B) (defining eligible retirement plan),*
 24 *as amended by subsection (a), is amended by striking*
 25 *“and” at the end of clause (iv), by striking the period*

1 at the end of clause (v) and inserting “, and”, and
2 by inserting after clause (v) the following new clause:

3 “(vi) an annuity contract described in
4 section 403(b).”.

5 (c) *EXPANDED EXPLANATION TO RECIPIENTS OF*
6 *ROLLOVER DISTRIBUTIONS.*—Paragraph (1) of section
7 402(f) (relating to written explanation to recipients of dis-
8 tributions eligible for rollover treatment) is amended by
9 striking “and” at the end of subparagraph (C), by striking
10 the period at the end of subparagraph (D) and inserting
11 “, and”, and by adding at the end the following new sub-
12 paragraph:

13 “(E) of the provisions under which distribu-
14 tions from the eligible retirement plan receiving
15 the distribution may be subject to restrictions
16 and tax consequences which are different from
17 those applicable to distributions from the plan
18 making such distribution.”.

19 (d) *SPOUSAL ROLLOVERS.*—Section 402(c)(9) (relat-
20 ing to rollover where spouse receives distribution after death
21 of employee) is amended by striking “; except that” and
22 all that follows up to the end period.

23 (e) *CONFORMING AMENDMENTS.*—

1 (1) Section 72(o)(4) is amended by striking “and
2 408(d)(3)” and inserting “403(b)(8), 408(d)(3), and
3 457(e)(16)”.

4 (2) Section 219(d)(2) is amended by striking “or
5 408(d)(3)” and inserting “408(d)(3), or 457(e)(16)”.

6 (3) Section 401(a)(31)(B) is amended by strik-
7 ing “and 403(a)(4)” and inserting “, 403(a)(4),
8 403(b)(8), and 457(e)(16)”.

9 (4) Subparagraph (A) of section 402(f)(2) is
10 amended by striking “or paragraph (4) of section
11 403(a)” and inserting “, paragraph (4) of section
12 403(a), subparagraph (A) of section 403(b)(8), or sub-
13 paragraph (A) of section 457(e)(16)”.

14 (5) Paragraph (1) of section 402(f) is amended
15 by striking “from an eligible retirement plan”.

16 (6) Subparagraphs (A) and (B) of section
17 402(f)(1) are amended by striking “another eligible
18 retirement plan” and inserting “an eligible retire-
19 ment plan”.

20 (7) Subparagraph (B) of section 403(b)(8) is
21 amended to read as follows:

22 “(B) CERTAIN RULES MADE APPLICABLE.—
23 The rules of paragraphs (2) through (7) and (9)
24 of section 402(c) and section 402(f) shall apply
25 for purposes of subparagraph (A), except that

1 *section 402(f) shall be applied to the payor in*
2 *lieu of the plan administrator.”.*

3 (8) *Section 408(a)(1) is amended by striking “or*
4 *403(b)(8)” and inserting “, 403(b)(8), or 457(e)(16)”.*

5 (9) *Subparagraphs (A) and (B) of section*
6 *415(b)(2) are each amended by striking “and*
7 *408(d)(3)” and inserting “403(b)(8), 408(d)(3), and*
8 *457(e)(16)”.*

9 (10) *Section 415(c)(2) is amended by striking*
10 *“and 408(d)(3)” and inserting “408(d)(3), and*
11 *457(e)(16)”.*

12 (11) *Section 4973(b)(1)(A) is amended by strik-*
13 *ing “or 408(d)(3)” and inserting “408(d)(3), or*
14 *457(e)(16)”.*

15 (f) *EFFECTIVE DATE; SPECIAL RULE.—*

16 (1) *EFFECTIVE DATE.—The amendments made*
17 *by this section shall apply to distributions after De-*
18 *cember 31, 2000.*

19 (2) *SPECIAL RULE.—Notwithstanding any other*
20 *provision of law, subsections (h)(3) and (h)(5) of sec-*
21 *tion 1122 of the Tax Reform Act of 1986 shall not*
22 *apply to any distribution from an eligible retirement*
23 *plan (as defined in clause (iii) or (iv) of section*
24 *402(c)(8)(B) of the Internal Revenue Code of 1986) on*
25 *behalf of an individual if there was a rollover to such*

1 *plan on behalf of such individual which is permitted*
2 *solely by reason of any amendment made by this sec-*
3 *tion.*

4 **SEC. 1342. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**
5 **MENT PLANS.**

6 (a) *IN GENERAL.*—Subparagraph (A) of section
7 408(d)(3) (relating to rollover amounts) is amended by add-
8 ing “or” at the end of clause (i), by striking clauses (ii)
9 and (iii), and by adding at the end the following:

10 “(ii) *the entire amount received (in-*
11 *cluding money and any other property) is*
12 *paid into an eligible retirement plan for the*
13 *benefit of such individual not later than the*
14 *60th day after the date on which the pay-*
15 *ment or distribution is received, except that*
16 *the maximum amount which may be paid*
17 *into such plan may not exceed the portion*
18 *of the amount received which is includible*
19 *in gross income (determined without regard*
20 *to this paragraph).*

21 *For purposes of clause (ii), the term ‘eligible re-*
22 *tirement plan’ means an eligible retirement plan*
23 *described in clause (iii), (iv), (v), or (vi) of sec-*
24 *tion 402(c)(8)(B).”.*

25 (b) *CONFORMING AMENDMENTS.*—

1 (1) Paragraph (1) of section 403(b) is amended
2 by striking “section 408(d)(3)(A)(iii)” and inserting
3 “section 408(d)(3)(A)(ii)”.

4 (2) Clause (i) of section 408(d)(3)(D) is amended
5 by striking “(i), (ii), or (iii)” and inserting “(i) or
6 (ii)”.

7 (3) Subparagraph (G) of section 408(d)(3) is
8 amended to read as follows:

9 “(G) *SIMPLE RETIREMENT ACCOUNTS.*—In
10 the case of any payment or distribution out of
11 a simple retirement account (as defined in sub-
12 section (p)) to which section 72(t)(6) applies,
13 this paragraph shall not apply unless such pay-
14 ment or distribution is paid into another simple
15 retirement account.”.

16 (c) *EFFECTIVE DATE; SPECIAL RULE.*—

17 (1) *EFFECTIVE DATE.*—The amendments made
18 by this section shall apply to distributions after De-
19 cember 31, 2000.

20 (2) *SPECIAL RULE.*—Notwithstanding any other
21 provision of law, subsections (h)(3) and (h)(5) of sec-
22 tion 1122 of the Tax Reform Act of 1986 shall not
23 apply to any distribution from an eligible retirement
24 plan (as defined in clause (iii) or (iv) of section
25 402(c)(8)(B) of the Internal Revenue Code of 1986) on

1 *behalf of an individual if there was a rollover to such*
2 *plan on behalf of such individual which is permitted*
3 *solely by reason of the amendments made by this sec-*
4 *tion.*

5 **SEC. 1343. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

6 *(a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph*
7 *(2) of section 402(c) (relating to maximum amount which*
8 *may be rolled over) is amended by adding at the end the*
9 *following: “The preceding sentence shall not apply to such*
10 *distribution to the extent—*

11 *“(A) such portion is transferred in a direct*
12 *trustee-to-trustee transfer to a qualified trust*
13 *which is part of a plan which is a defined con-*
14 *tribution plan and which agrees to separately*
15 *account for amounts so transferred, including*
16 *separately accounting for the portion of such dis-*
17 *tribution which is includible in gross income*
18 *and the portion of such distribution which is not*
19 *so includible, or*

20 *“(B) such portion is transferred to an eligi-*
21 *ble retirement plan described in clause (i) or (ii)*
22 *of paragraph (8)(B).”.*

23 *(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLL-*
24 *OVER DISTRIBUTIONS.—Subparagraph (B) of section*
25 *401(a)(31) (relating to limitation) is amended by adding*

1 *at the end the following: “The preceding sentence shall not*
2 *apply to such distribution if the plan to which such dis-*
3 *tribution is transferred—*

4 *“(i) agrees to separately account for*
5 *amounts so transferred, including sepa-*
6 *rately accounting for the portion of such*
7 *distribution which is includible in gross in-*
8 *come and the portion of such distribution*
9 *which is not so includible, or*

10 *“(ii) is an eligible retirement plan de-*
11 *scribed in clause (i) or (ii) of section*
12 *402(c)(8)(B).”.*

13 *(c) RULES FOR APPLYING SECTION 72 TO IRAS.—*
14 *Paragraph (3) of section 408(d) (relating to special rules*
15 *for applying section 72) is amended by inserting at the end*
16 *the following:*

17 *“(H) APPLICATION OF SECTION 72.—*

18 *“(i) IN GENERAL.—If—*

19 *“(I) a distribution is made from*
20 *an individual retirement plan, and*

21 *“(II) a rollover contribution is*
22 *made to an eligible retirement plan de-*
23 *scribed in section 402(c)(8)(B)(iii),*
24 *(iv), (v), or (vi) with respect to all or*
25 *part of such distribution,*

1 *then, notwithstanding paragraph (2), the*
2 *rules of clause (ii) shall apply for purposes*
3 *of applying section 72.*

4 *“(i) APPLICABLE RULES.—In the case*
5 *of a distribution described in clause (i)—*

6 *“(I) section 72 shall be applied*
7 *separately to such distribution,*

8 *“(II) notwithstanding the pro*
9 *rata allocation of income on, and in-*
10 *vestment in, the contract to distribu-*
11 *tions under section 72, the portion of*
12 *such distribution rolled over to an eli-*
13 *gible retirement plan described in*
14 *clause (i) shall be treated as from in-*
15 *come on the contract (to the extent of*
16 *the aggregate income on the contract*
17 *from all individual retirement plans of*
18 *the distributee), and*

19 *“(III) appropriate adjustments*
20 *shall be made in applying section 72 to*
21 *other distributions in such taxable year*
22 *and subsequent taxable years.”.*

23 *(d) EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to distributions made after December 31,*
25 *2000.*

1 **SEC. 1344. HARDSHIP EXCEPTION TO 60-DAY RULE.**

2 (a) *EXEMPT TRUSTS.*—Paragraph (3) of section
3 402(c) (relating to transfer must be made within 60 days
4 of receipt) is amended to read as follows:

5 “(3) *TRANSFER MUST BE MADE WITHIN 60 DAYS*
6 *OF RECEIPT.*—

7 “(A) *IN GENERAL.*—Except as provided in
8 subparagraph (B), paragraph (1) shall not
9 apply to any transfer of a distribution made
10 after the 60th day following the day on which the
11 distributee received the property distributed.

12 “(B) *HARDSHIP EXCEPTION.*—The Sec-
13 retary may waive the 60-day requirement under
14 subparagraph (A) where the failure to waive
15 such requirement would be against equity or
16 good conscience, including casualty, disaster, or
17 other events beyond the reasonable control of the
18 individual subject to such requirement.”.

19 (b) *IRAS.*—Paragraph (3) of section 408(d) (relating
20 to rollover contributions), as amended by section 1343, is
21 amended by adding after subparagraph (H) the following
22 new subparagraph:

23 “(I) *WAIVER OF 60-DAY REQUIREMENT.*—
24 The Secretary may waive the 60-day require-
25 ment under subparagraphs (A) and (D) where
26 the failure to waive such requirement would be

1 *against equity or good conscience, including cas-*
2 *ualty, disaster, or other events beyond the rea-*
3 *sonable control of the individual subject to such*
4 *requirement.”.*

5 *(c) EFFECTIVE DATE.—The amendments made by this*
6 *section shall apply to distributions after December 31, 2000.*

7 **SEC. 1345. TREATMENT OF FORMS OF DISTRIBUTION.**

8 *(a) PLAN TRANSFERS.—*

9 *(1) AMENDMENT TO INTERNAL REVENUE CODE*
10 *OF 1986.—Paragraph (6) of section 411(d) (relating to*
11 *accrued benefit not to be decreased by amendment) is*
12 *amended by adding at the end the following:*

13 *“(D) PLAN TRANSFERS.—*

14 *“(i) A defined contribution plan (in*
15 *this subparagraph referred to as the ‘trans-*
16 *ferree plan’) shall not be treated as failing to*
17 *meet the requirements of this subsection*
18 *merely because the transferee plan does not*
19 *provide some or all of the forms of distribu-*
20 *tion previously available under another de-*
21 *defined contribution plan (in this subpara-*
22 *graph referred to as the ‘transferor plan’) to*
23 *the extent that—*

24 *“(I) the forms of distribution pre-*
25 *viously available under the transferor*

1 *plan applied to the account of a par-*
2 *ticipant or beneficiary under the*
3 *transferor plan that was transferred*
4 *from the transferor plan to the trans-*
5 *feree plan pursuant to a direct transfer*
6 *rather than pursuant to a distribution*
7 *from the transferor plan,*

8 *“(II) the terms of both the trans-*
9 *feror plan and the transferee plan au-*
10 *thorize the transfer described in sub-*
11 *clause (I),*

12 *“(III) the transfer described in*
13 *subclause (I) was made pursuant to a*
14 *voluntary election by the participant*
15 *or beneficiary whose account was*
16 *transferred to the transferee plan,*

17 *“(IV) the election described in*
18 *subclause (III) was made after the par-*
19 *ticipant or beneficiary received a no-*
20 *tice describing the consequences of*
21 *making the election,*

22 *“(V) if the transferor plan pro-*
23 *vides for an annuity as the normal*
24 *form of distribution under the plan in*
25 *accordance with section 417, the trans-*

1 *fer is made with the consent of the par-*
2 *ticipant's spouse (if any), and such*
3 *consent meets requirements similar to*
4 *the requirements imposed by section*
5 *417(a)(2), and*

6 *“(VI) the transferee plan allows*
7 *the participant or beneficiary described*
8 *in clause (iii) to receive any distribu-*
9 *tion to which the participant or bene-*
10 *ficiary is entitled under the transferee*
11 *plan in the form of a single sum dis-*
12 *tribution.*

13 *“(ii) Clause (i) shall apply to plan*
14 *mergers and other transactions having the*
15 *effect of a direct transfer, including consoli-*
16 *dations of benefits attributable to different*
17 *employers within a multiple employer plan.*

18 *“(E) ELIMINATION OF FORM OF DISTRIBUTION.—*
19 *Except to the extent provided in regula-*
20 *tions, a defined contribution plan shall not be*
21 *treated as failing to meet the requirements of this*
22 *section merely because of the elimination of a*
23 *form of distribution previously available there-*
24 *under. This subparagraph shall not apply to the*

1 *elimination of a form of distribution with re-*
2 *spect to any participant unless—*

3 “(i) a single sum payment is available
4 to such participant at the same time or
5 times as the form of distribution being
6 eliminated, and

7 “(ii) such single sum payment is based
8 on the same or greater portion of the par-
9 ticipant’s account as the form of distribu-
10 tion being eliminated.”.

11 (2) *AMENDMENT TO ERISA.*—Section 204(g) of
12 the *Employee Retirement Income Security Act of*
13 1974 (29 U.S.C. 1054(g)) is amended by adding at
14 the end the following:

15 “(4)(A) A defined contribution plan (in this subpara-
16 graph referred to as the ‘transferee plan’) shall not be treat-
17 ed as failing to meet the requirements of this subsection
18 merely because the transferee plan does not provide some
19 or all of the forms of distribution previously available under
20 another defined contribution plan (in this subparagraph re-
21 ferred to as the ‘transferor plan’) to the extent that—

22 “(i) the forms of distribution previously avail-
23 able under the transferor plan applied to the account
24 of a participant or beneficiary under the transferor
25 plan that was transferred from the transferor plan to

1 *the transferee plan pursuant to a direct transfer rath-*
2 *er than pursuant to a distribution from the transferor*
3 *plan;*

4 *“(ii) the terms of both the transferor plan and*
5 *the transferee plan authorize the transfer described in*
6 *clause (i);*

7 *“(iii) the transfer described in clause (i) was*
8 *made pursuant to a voluntary election by the partici-*
9 *part or beneficiary whose account was transferred to*
10 *the transferee plan;*

11 *“(iv) the election described in clause (iii) was*
12 *made after the participant or beneficiary received a*
13 *notice describing the consequences of making the elec-*
14 *tion;*

15 *“(v) if the transferor plan provides for an annu-*
16 *ity as the normal form of distribution under the plan*
17 *in accordance with section 205, the transfer is made*
18 *with the consent of the participant’s spouse (if any),*
19 *and such consent meets requirements similar to the*
20 *requirements imposed by section 205(c)(2); and*

21 *“(vi) the transferee plan allows the participant*
22 *or beneficiary described in clause (iii) to receive any*
23 *distribution to which the participant or beneficiary is*
24 *entitled under the transferee plan in the form of a*
25 *single sum distribution.*

1 “(B) Subparagraph (A) shall apply to plan mergers
2 and other transactions having the effect of a direct transfer,
3 including consolidations of benefits attributable to different
4 employers within a multiple employer plan.

5 “(5) *ELIMINATION OF FORM OF DISTRIBUTION.*—*Ex-*
6 *cept to the extent provided in regulations, a defined con-*
7 *tribution plan shall not be treated as failing to meet the*
8 *requirements of this section merely because of the elimi-*
9 *nation of a form of distribution previously available there-*
10 *under. This paragraph shall not apply to the elimination*
11 *of a form of distribution with respect to any participant*
12 *unless—*

13 “(A) a single sum payment is available to such
14 participant at the same time or times as the form of
15 distribution being eliminated; and

16 “(B) such single sum payment is based on the
17 same or greater portion of the participant’s account
18 as the form of distribution being eliminated.”.

19 “(3) *EFFECTIVE DATE.*—*The amendments made*
20 *by this subsection shall apply to years beginning after*
21 *December 31, 2000.*

22 “(b) *REGULATIONS.*—

23 “(1) *AMENDMENT TO INTERNAL REVENUE CODE*
24 *OF 1986.*—*The last sentence of paragraph (6)(B) of*
25 *section 411(d) (relating to accrued benefit not to be*

1 *decreased by amendment) is amended to read as fol-*
2 *lows: “The Secretary shall by regulations provide that*
3 *this subparagraph shall not apply to any plan*
4 *amendment that does not adversely affect the rights of*
5 *participants in a material manner.”.*

6 (2) *AMENDMENT TO ERISA.—The last sentence of*
7 *section 204(g)(2) of the Employee Retirement Income*
8 *Security Act of 1974 (29 U.S.C. 1054(g)(2)) is*
9 *amended to read as follows: “The Secretary of the*
10 *Treasury shall by regulations provide that this para-*
11 *graph shall not apply to any plan amendment that*
12 *does not adversely affect the rights of participants in*
13 *a material manner.”.*

14 (3) *SECRETARY DIRECTED.—Not later than De-*
15 *cember 31, 2001, the Secretary of the Treasury is di-*
16 *rected to issue final regulations under section*
17 *411(d)(6) of the Internal Revenue Code of 1986 and*
18 *section 204(g) of the Employee Retirement Income Se-*
19 *curity Act of 1974, including the regulations required*
20 *by the amendments made by this subsection. Such*
21 *regulations shall apply to plan years beginning after*
22 *December 31, 2001, or such earlier date as is specified*
23 *by the Secretary of the Treasury.*

1 **SEC. 1346. RATIONALIZATION OF RESTRICTIONS ON DIS-**
2 **TRIBUTIONS.**

3 (a) *MODIFICATION OF SAME DESK EXCEPTION.—*

4 (1) *SECTION 401(k).—*

5 (A) *Section 401(k)(2)(B)(i)(I) (relating to*
6 *qualified cash or deferred arrangements) is*
7 *amended by striking “separation from service”*
8 *and inserting “severance from employment”.*

9 (B) *Subparagraph (A) of section 401(k)(10)*
10 *(relating to distributions upon termination of*
11 *plan or disposition of assets or subsidiary) is*
12 *amended to read as follows:*

13 “(A) *IN GENERAL.—An event described in*
14 *this subparagraph is the termination of the plan*
15 *without establishment or maintenance of another*
16 *defined contribution plan (other than an em-*
17 *ployee stock ownership plan as defined in section*
18 *4975(e)(7)).”.*

19 (C) *Section 401(k)(10) is amended—*

20 (i) *in subparagraph (B)—*

21 (I) *by striking “An event” in*
22 *clause (i) and inserting “A termi-*
23 *nation”, and*

24 (II) *by striking “the event” in*
25 *clause (i) and inserting “the termi-*
26 *nation”,*

1 (ii) by striking subparagraph (C), and
2 (iii) by striking “OR DISPOSITION OF
3 ASSETS OR SUBSIDIARY” in the heading.

4 (2) SECTION 403(b).—

5 (A) Paragraphs (7)(A)(ii) and (11)(A) of
6 section 403(b) are each amended by striking
7 “separates from service” and inserting “has a
8 severance from employment”.

9 (B) The heading for paragraph (11) of sec-
10 tion 403(b) is amended by striking “SEPARATION
11 FROM SERVICE” and inserting “SEVERANCE
12 FROM EMPLOYMENT”.

13 (3) SECTION 457.—Clause (ii) of section
14 457(d)(1)(A) is amended by striking “is separated
15 from service” and inserting “has a severance from
16 employment”.

17 (b) EFFECTIVE DATE.—The amendments made by this
18 section shall apply to distributions after December 31, 2000.

19 **SEC. 1347. PURCHASE OF SERVICE CREDIT IN GOVERN-**
20 **MENTAL DEFINED BENEFIT PLANS.**

21 (a) 403(b) PLANS.—Subsection (b) of section 403 is
22 amended by adding at the end the following new paragraph:

23 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO
24 PURCHASE PERMISSIVE SERVICE CREDIT.—No
25 amount shall be includible in gross income by reason

1 of a direct trustee-to-trustee transfer to a defined ben-
2 efit governmental plan (as defined in section 414(d))
3 if such transfer is—

4 “(A) for the purchase of permissive service
5 credit (as defined in section 415(n)(3)(A)) under
6 such plan, or

7 “(B) a repayment to which section 415 does
8 not apply by reason of subsection (k)(3) there-
9 of.”.

10 (b) 457 PLANS.—

11 (1) Subsection (e) of section 457 is amended by
12 adding after paragraph (16) the following new para-
13 graph:

14 “(17) *TRUSTEE-TO-TRUSTEE TRANSFERS TO*
15 *PURCHASE PERMISSIVE SERVICE CREDIT.*—No
16 amount shall be includible in gross income by reason
17 of a direct trustee-to-trustee transfer to a defined ben-
18 efit governmental plan (as defined in section 414(d))
19 if such transfer is—

20 “(A) for the purchase of permissive service
21 credit (as defined in section 415(n)(3)(A)) under
22 such plan, or

23 “(B) a repayment to which section 415 does
24 not apply by reason of subsection (k)(3) there-
25 of.”.

1 (2) Section 457(b)(2) is amended by striking
2 “(other than rollover amounts)” and inserting “(other
3 than rollover amounts and amounts received in a
4 transfer referred to in subsection (e)(17))”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
6 section shall apply to trustee-to-trustee transfers after De-
7 cember 31, 2000.

8 **SEC. 1348. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**
9 **PURPOSES OF CASH-OUT AMOUNTS.**

10 (a) *QUALIFIED PLANS.*—

11 (1) *AMENDMENT TO INTERNAL REVENUE CODE*
12 *OF 1986.*—Section 411(a)(11) (relating to restrictions
13 on certain mandatory distributions) is amended by
14 adding at the end the following:

15 “(D) *SPECIAL RULE FOR ROLLOVER CON-*
16 *TRIBUTIONS.*—A plan shall not fail to meet the
17 requirements of this paragraph if, under the
18 terms of the plan, the present value of the non-
19 forfeitable accrued benefit is determined without
20 regard to that portion of such benefit which is
21 attributable to rollover contributions (and earn-
22 ings allocable thereto). For purposes of this sub-
23 paragraph, the term ‘rollover contributions’
24 means any rollover contribution under sections

1 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
2 and 457(e)(16).”.

3 (2) *AMENDMENT TO ERISA.*—Section 203(e) of
4 the *Employee Retirement Income Security Act of*
5 1974 (29 U.S.C. 1053(c)) is amended by adding at
6 the end the following:

7 “(4) A plan shall not fail to meet the requirements of
8 this subsection if, under the terms of the plan, the present
9 value of the nonforfeitable accrued benefit is determined
10 without regard to that portion of such benefit which is at-
11 tributable to rollover contributions (and earnings allocable
12 thereto). For purposes of this subparagraph, the term ‘roll-
13 over contributions’ means any rollover contribution under
14 sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and
15 457(e)(16) of the Internal Revenue Code of 1986.”.

16 (b) *ELIGIBLE DEFERRED COMPENSATION PLANS.*—
17 Clause (i) of section 457(e)(9)(A) is amended by striking
18 “such amount” and inserting “the portion of such amount
19 which is not attributable to rollover contributions (as de-
20 fined in section 411(a)(11)(D))”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to distributions after December 31, 2000.

1 **SEC. 1349. MINIMUM DISTRIBUTION AND INCLUSION RE-**
2 **QUIREMENTS FOR SECTION 457 PLANS.**

3 (a) *MINIMUM DISTRIBUTION REQUIREMENTS.*—Para-
4 *graph (2) of section 457(d) (relating to distribution require-*
5 *ments) is amended to read as follows:*

6 “(2) *MINIMUM DISTRIBUTION REQUIREMENTS.*—
7 *A plan meets the minimum distribution requirements*
8 *of this paragraph if such plan meets the requirements*
9 *of section 401(a)(9).”*

10 (b) *INCLUSION IN GROSS INCOME.*—

11 (1) *YEAR OF INCLUSION.*—*Subsection (a) of sec-*
12 *tion 457 (relating to year of inclusion in gross in-*
13 *come) is amended to read as follows:*

14 “(a) *YEAR OF INCLUSION IN GROSS INCOME.*—

15 “(1) *IN GENERAL.*—*Any amount of compensa-*
16 *tion deferred under an eligible deferred compensation*
17 *plan, and any income attributable to the amounts so*
18 *deferred, shall be includible in gross income only for*
19 *the taxable year in which such compensation or other*
20 *income—*

21 “(A) *is paid to the participant or other ben-*
22 *eficiary, in the case of a plan of an eligible em-*
23 *ployer described in subsection (e)(1)(A), and*

24 “(B) *is paid or otherwise made available to*
25 *the participant or other beneficiary, in the case*

1 of a plan of an eligible employer described in
2 subsection (e)(1)(B).

3 “(2) *SPECIAL RULE FOR ROLLOVER AMOUNTS.*—
4 *To the extent provided in section 72(t)(9), section*
5 *72(t) shall apply to any amount includible in gross*
6 *income under this subsection.”*

7 (2) *CONFORMING AMENDMENTS.*—

8 (A) *So much of paragraph (9) of section*
9 *457(e) as precedes subparagraph (A) is amended*
10 *to read as follows:*

11 “(9) *BENEFITS OF TAX EXEMPT ORGANIZATION*
12 *PLANS NOT TREATED AS MADE AVAILABLE BY REASON*
13 *OF CERTAIN ELECTIONS, ETC.*—*In the case of an eligi-*
14 *ble deferred compensation plan of an employer de-*
15 *scribed in subsection (e)(1)(B)—”*

16 (B) *Section 457(d) is amended by adding at*
17 *the end the following new paragraph:*

18 “(3) *SPECIAL RULE FOR GOVERNMENT PLAN.*—
19 *An eligible deferred compensation plan of an em-*
20 *ployer described in subsection (e)(1)(A) shall not be*
21 *treated as failing to meet the requirements of this sub-*
22 *section solely by reason of making a distribution de-*
23 *scribed in subsection (e)(9)(A).”*

24 (c) *EFFECTIVE DATE.*—*The amendments made by this*
25 *section shall apply to distributions after December 31, 2000.*

1 **PART IV—STRENGTHENING PENSION SECURITY**
 2 **AND ENFORCEMENT**

3 **SEC. 1351. REPEAL OF 150 PERCENT OF CURRENT LIABILITY**
 4 **FUNDING LIMIT.**

5 (a) *AMENDMENT TO INTERNAL REVENUE CODE OF*
 6 *1986.—Section 412(c)(7) (relating to full-funding limita-*
 7 *tion) is amended—*

8 (1) *by striking “the applicable percentage” in*
 9 *subparagraph (A)(i)(I) and inserting “in the case of*
 10 *plan years beginning before January 1, 2004, the ap-*
 11 *plicable percentage”, and*

12 (2) *by amending subparagraph (F) to read as*
 13 *follows:*

14 “(F) *APPLICABLE PERCENTAGE.—For pur-*
 15 *poses of subparagraph (A)(i)(I), the applicable*
 16 *percentage shall be determined in accordance*
 17 *with the following table:*

<i>“In the case of any plan year beginning in—</i>	<i>The applicable percentage is—</i>
2001	160
2002	165
2003	170.”.

18 (b) *AMENDMENT TO ERISA.—Section 302(c)(7) of the*
 19 *Employee Retirement Income Security Act of 1974 (29*
 20 *U.S.C. 1082(c)(7)) is amended—*

21 (1) *by striking “the applicable percentage” in*
 22 *subparagraph (A)(i)(I) and inserting “in the case of*

1 *plan years beginning before January 1, 2004, the ap-*
 2 *plicable percentage”, and*

3 *(2) by amending subparagraph (F) to read as*
 4 *follows:*

5 *“(F) APPLICABLE PERCENTAGE.—For pur-*
 6 *poses of subparagraph (A)(i)(I), the applicable*
 7 *percentage shall be determined in accordance*
 8 *with the following table:*

<i>“In the case of any plan year beginning in—</i>	<i>The applicable percentage is—</i>
2001	160
2002	165
2003	170.”.

9 *(c) EFFECTIVE DATE.—The amendments made by this*
 10 *section shall apply to plan years beginning after December*
 11 *31, 2000.*

12 **SEC. 1352. MAXIMUM CONTRIBUTION DEDUCTION RULES**
 13 **MODIFIED AND APPLIED TO ALL DEFINED**
 14 **BENEFIT PLANS.**

15 *(a) IN GENERAL.—Subparagraph (D) of section*
 16 *404(a)(1) (relating to special rule in case of certain plans)*
 17 *is amended to read as follows:*

18 *“(D) SPECIAL RULE IN CASE OF CERTAIN*
 19 *PLANS.—*

20 *“(i) IN GENERAL.—In the case of any*
 21 *defined benefit plan, except as provided in*
 22 *regulations, the maximum amount deduct-*
 23 *ible under the limitations of this paragraph*

1 *shall not be less than the unfunded termi-*
2 *nation liability (determined as if the pro-*
3 *posed termination date referred to in section*
4 *4041(b)(2)(A)(i)(II) of the Employee Retire-*
5 *ment Income Security Act of 1974 were the*
6 *last day of the plan year).*

7 “(i) *PLANS WITH LESS THAN 100 PAR-*
8 *TICIPANTS.—For purposes of this subpara-*
9 *graph, in the case of a plan which has less*
10 *than 100 participants for the plan year,*
11 *termination liability shall not include the*
12 *liability attributable to benefit increases for*
13 *highly compensated employees (as defined*
14 *in section 414(q)) resulting from a plan*
15 *amendment which is made or becomes effec-*
16 *tive, whichever is later, within the last 2*
17 *years before the termination date.*

18 “(iii) *RULE FOR DETERMINING NUM-*
19 *BER OF PARTICIPANTS.—For purposes of de-*
20 *termining whether a plan has more than*
21 *100 participants, all defined benefit plans*
22 *maintained by the same employer (or any*
23 *member of such employer’s controlled group*
24 *(within the meaning of section*
25 *412(l)(8)(C))) shall be treated as one plan,*

1 *but only employees of such member or em-*
2 *ployer shall be taken into account.*

3 “(iv) *PLANS ESTABLISHED AND MAIN-*
4 *TAIN BY PROFESSIONAL SERVICE EMPLOY-*
5 *ERS.—Clause (i) shall not apply to a plan*
6 *described in section 4021(b)(13) of the Em-*
7 *ployee Retirement Income Security Act of*
8 *1974.”.*

9 (b) *CONFORMING AMENDMENT.—Paragraph (6) of sec-*
10 *tion 4972(c) is amended to read as follows:*

11 “(6) *EXCEPTIONS.—In determining the amount*
12 *of nondeductible contributions for any taxable year,*
13 *there shall not be taken into account so much of the*
14 *contributions to one or more defined contribution*
15 *plans which are not deductible when contributed sole-*
16 *ly because of section 404(a)(7) as does not exceed the*
17 *greater of—*

18 “(A) *the amount of contributions not in ex-*
19 *cess of 6 percent of compensation (within the*
20 *meaning of section 404(a)) paid or accrued (dur-*
21 *ing the taxable year for which the contributions*
22 *were made) to beneficiaries under the plans, or*

23 “(B) *the sum of—*

24 “(i) *the amount of contributions de-*
25 *scribed in section 401(m)(4)(A), plus*

1 “(i) the amount of contributions de-
2 scribed in section 402(g)(3)(A).

3 *For purposes of this paragraph, the deductible limits*
4 *under section 404(a)(7) shall first be applied to*
5 *amounts contributed to a defined benefit plan and*
6 *then to amounts described in subparagraph (B).”.*

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
8 *section shall apply to plan years beginning after December*
9 *31, 2000.*

10 **SEC. 1353. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**
11 **ING.**

12 (a) *IN GENERAL.*—*Subsection (c) of section 4972 (re-*
13 *lating to nondeductible contributions) is amended by add-*
14 *ing at the end the following new paragraph:*

15 “(7) *DEFINED BENEFIT PLAN EXCEPTION.*—*In*
16 *determining the amount of nondeductible contribu-*
17 *tions for any taxable year, an employer may elect for*
18 *such year not to take into account any contributions*
19 *to a defined benefit plan except to the extent that such*
20 *contributions exceed the full-funding limitation (as*
21 *defined in section 412(c)(7), determined without re-*
22 *gard to subparagraph (A)(i)(I) thereof). For purposes*
23 *of this paragraph, the deductible limits under section*
24 *404(a)(7) shall first be applied to amounts contrib-*
25 *uted to defined contribution plans and then to*

1 *amounts described in this paragraph. If an employer*
 2 *makes an election under this paragraph for a taxable*
 3 *year, paragraph (6) shall not apply to such employer*
 4 *for such taxable year.”.*

5 *(b) EFFECTIVE DATE.—The amendments made by this*
 6 *section shall apply to years beginning after December 31,*
 7 *2000.*

8 **SEC. 1354. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**
 9 **DEFINED BENEFIT PLANS SIGNIFICANTLY RE-**
 10 **DUCING FUTURE BENEFIT ACCRUALS.**

11 *(a) AMENDMENT TO 1986 CODE.—Chapter 43 of sub-*
 12 *title D (relating to qualified pension, etc., plans) is amend-*
 13 *ed by adding at the end the following new section:*

14 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**
 15 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**
 16 **QUIREMENTS.**

17 *“(a) IMPOSITION OF TAX.—There is hereby imposed a*
 18 *tax on the failure of any applicable pension plan to meet*
 19 *the requirements of subsection (e) with respect to any appli-*
 20 *cable individual.*

21 *“(b) AMOUNT OF TAX.—*

22 *“(1) IN GENERAL.—The amount of the tax im-*
 23 *posed by subsection (a) on any failure with respect to*
 24 *any applicable individual shall be \$100 for each day*

1 *in the noncompliance period with respect to such fail-*
2 *ure.*

3 “(2) *NONCOMPLIANCE PERIOD.*—*For purposes of*
4 *this section, the term ‘noncompliance period’ means,*
5 *with respect to any failure, the period beginning on*
6 *the date the failure first occurs and ending on the*
7 *date the failure is corrected.*

8 “(c) *LIMITATIONS ON AMOUNT OF TAX.*—

9 “(1) *OVERALL LIMITATION FOR UNINTENTIONAL*
10 *FAILURES.*—*In the case of failures that are due to*
11 *reasonable cause and not to willful neglect, the tax*
12 *imposed by subsection (a) for failures during the tax-*
13 *able year of the employer (or, in the case of a multi-*
14 *employer plan, the taxable year of the trust forming*
15 *part of the plan) shall not exceed \$500,000. For pur-*
16 *poses of the preceding sentence, all multiemployer*
17 *plans of which the same trust forms a part shall be*
18 *treated as one plan. For purposes of this paragraph,*
19 *if not all persons who are treated as a single em-*
20 *ployer for purposes of this section have the same tax-*
21 *able year, the taxable years taken into account shall*
22 *be determined under principles similar to the prin-*
23 *ciples of section 1561.*

24 “(2) *WAIVER BY SECRETARY.*—*In the case of a*
25 *failure which is due to reasonable cause and not to*

1 *willful neglect, the Secretary may waive part or all*
2 *of the tax imposed by subsection (a) to the extent that*
3 *the payment of such tax would be excessive relative to*
4 *the failure involved.*

5 *“(d) LIABILITY FOR TAX.—The following shall be lia-*
6 *ble for the tax imposed by subsection (a):*

7 *“(1) In the case of a plan other than a multiem-*
8 *ployer plan, the employer.*

9 *“(2) In the case of a multiemployer plan, the*
10 *plan.*

11 *“(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFI-*
12 *CANTLY REDUCING BENEFIT ACCRUALS.—*

13 *“(1) IN GENERAL.—If an applicable pension*
14 *plan is amended to provide for a significant reduc-*
15 *tion in the rate of future benefit accrual, the plan ad-*
16 *ministrator shall provide written notice to each ap-*
17 *plicable individual (and to each employee organiza-*
18 *tion representing applicable individuals).*

19 *“(2) NOTICE.—The notice required by paragraph*
20 *(1) shall be written in a manner calculated to be un-*
21 *derstood by the average plan participant and shall*
22 *provide sufficient information (as determined in ac-*
23 *cordance with regulations prescribed by the Sec-*
24 *retary) to allow applicable individuals to understand*
25 *the effect of the plan amendment.*

1 “(3) *TIMING OF NOTICE.*—*Except as provided in*
2 *regulations, the notice required by paragraph (1)*
3 *shall be provided within a reasonable time before the*
4 *effective date of the plan amendment.*

5 “(4) *DESIGNEES.*—*Any notice under paragraph*
6 *(1) may be provided to a person designated, in writ-*
7 *ing, by the person to which it would otherwise be pro-*
8 *vided.*

9 “(5) *NOTICE BEFORE ADOPTION OF AMEND-*
10 *MENT.*—*A plan shall not be treated as failing to meet*
11 *the requirements of paragraph (1) merely because no-*
12 *tice is provided before the adoption of the plan*
13 *amendment if no material modification of the amend-*
14 *ment occurs before the amendment is adopted.*

15 “(f) *APPLICABLE INDIVIDUAL; APPLICABLE PENSION*
16 *PLAN.*—*For purposes of this section—*

17 “(1) *APPLICABLE INDIVIDUAL.*—*The term ‘appli-*
18 *cable individual’ means, with respect to any plan*
19 *amendment—*

20 “(A) *any participant in the plan, and*

21 “(B) *any beneficiary who is an alternate*
22 *payee (within the meaning of section 414(p)(8))*
23 *under an applicable qualified domestic relations*
24 *order (within the meaning of section*
25 *414(p)(1)(A)),*

1 *who may reasonably be expected to be affected by such*
2 *plan amendment.*

3 “(2) *APPLICABLE PENSION PLAN.*—*The term ‘ap-*
4 *plicable pension plan’ means—*

5 “(A) *any defined benefit plan, or*

6 “(B) *an individual account plan which is*
7 *subject to the funding standards of section 412,*
8 *which had 100 or more participants who had accrued*
9 *a benefit, or with respect to whom contributions were*
10 *made, under the plan (whether or not vested) as of the*
11 *last day of the plan year preceding the plan year in*
12 *which the plan amendment becomes effective. Such*
13 *term shall not include a governmental plan (within*
14 *the meaning of section 414(d)) or a church plan*
15 *(within the meaning of section 414(e)) with respect to*
16 *which the election provided by section 410(d) has not*
17 *been made.”.*

18 (b) *AMENDMENT TO ERISA.*—*Section 204(h) of the*
19 *Employee Retirement Income Security Act of 1974 (29*
20 *U.S.C. 1054(h)) is amended by adding at the end the fol-*
21 *lowing new paragraph:*

22 “(3)(A) *A plan to which paragraph (1) applies shall*
23 *not be treated as meeting the requirements of such para-*
24 *graph unless, in addition to any notice required to be pro-*
25 *vided to an individual or organization under such para-*

1 graph, the plan administrator provides the notice described
2 in subparagraph (B).

3 “(B) The notice required by subparagraph (A) shall
4 be written in a manner calculated to be understood by the
5 average plan participant and shall provide sufficient infor-
6 mation (as determined in accordance with regulations pre-
7 scribed by the Secretary of the Treasury) to allow individ-
8 uals to understand the effect of the plan amendment.

9 “(C) Except as provided in regulations prescribed by
10 the Secretary of the Treasury, the notice required by sub-
11 paragraph (A) shall be provided within a reasonable time
12 before the effective date of the plan amendment.

13 “(D) A plan shall not be treated as failing to meet
14 the requirements of subparagraph (A) merely because notice
15 is provided before the adoption of the plan amendment if
16 no material modification of the amendment occurs before
17 the amendment is adopted.”.

18 (c) CLERICAL AMENDMENT.—The table of sections for
19 chapter 43 of subtitle D is amended by adding at the end
20 the following new item:

“Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy no-
tice requirements.”.

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to plan amendments taking
24 effect on or after the date of the enactment of this Act.

1 (2) *TRANSITION.*—Until such time as the Sec-
2 retary of the Treasury issues regulations under sec-
3 tions 4980F(e)(2) and (3) of the Internal Revenue
4 Code of 1986 and section 204(h)(3) of the Employee
5 Retirement Income Security Act of 1974 (as added by
6 the amendments made by this section), a plan shall
7 be treated as meeting the requirements of such sections
8 if it makes a good faith effort to comply with such re-
9 quirements.

10 (3) *SPECIAL RULE.*—The period for providing
11 any notice required by the amendments made by this
12 section shall not end before the date which is 3
13 months after the date of the enactment of this Act.

14 **SEC. 1355. PROTECTION OF INVESTMENT OF EMPLOYEE**
15 **CONTRIBUTIONS TO 401(K) PLANS.**

16 (a) *IN GENERAL.*—Section 1524(b) of the Taxpayer
17 *Relief Act of 1997 is amended to read as follows:*

18 “(b) *EFFECTIVE DATE.*—

19 “(1) *IN GENERAL.*—Except as provided in para-
20 graph (2), the amendments made by this section shall
21 apply to elective deferrals for plan years beginning
22 after December 31, 1998.

23 “(2) *NONAPPLICATION TO PREVIOUSLY ACQUIRED*
24 *PROPERTY.*—The amendments made by this section
25 shall not apply to any elective deferral which is in-

1 (1) by striking “For purposes” and inserting the
2 following:

3 “(A) *IN GENERAL.*—For purposes”, and

4 (2) by adding at the end the following:

5 “(B) *ELECTION TO USE PRIOR YEAR VALU-*
6 *ATION.*—

7 “(i) *IN GENERAL.*—Except as provided
8 in clause (i), if, for any plan year—

9 “(I) an election is in effect under
10 this subparagraph with respect to a
11 plan, and

12 “(II) the assets of the plan are not
13 less than 125 percent of the plan’s cur-
14 rent liability (as defined in paragraph
15 (7)(B)), determined as of the valuation
16 date for the preceding plan year,

17 then this section shall be applied using the
18 information available as of such valuation
19 date.

20 “(ii) *EXCEPTIONS.*—

21 “(I) *ACTUAL VALUATION EVERY 3*
22 *YEARS.*—Clause (i) shall not apply for
23 more than 2 consecutive plan years
24 and valuation shall be under subpara-
25 graph (A) with respect to any plan

1 year to which clause (i) does not apply
2 by reason of this subclause.

3 “(II) REGULATIONS.—Clause (i)
4 shall not apply to the extent that more
5 frequent valuations are required under
6 the regulations under subparagraph
7 (A).

8 “(iii) ADJUSTMENTS.—Information
9 under clause (i) shall, in accordance with
10 regulations, be actuarially adjusted to re-
11 flect significant differences in participants.

12 “(iv) ELECTION.—An election under
13 this subparagraph, once made, shall be ir-
14 revocable without the consent of the Sec-
15 retary.”.

16 (b) AMENDMENTS TO ERISA.—Paragraph (9) of sec-
17 tion 302(c) of the Employee Retirement Income Security
18 Act of 1974 (29 U.S.C. 1053(c)) is amended—

19 (1) by inserting “(A)” after “(9)”, and

20 (2) by adding at the end the following:

21 “(B)(i) Except as provided in clause (ii), if, for any
22 plan year—

23 “(I) an election is in effect under this subpara-
24 graph with respect to a plan, and

1 “(II) the assets of the plan are not less than 125
2 percent of the plan’s current liability (as defined in
3 paragraph (7)(B)), determined as of the valuation
4 date for the preceding plan year,
5 then this section shall be applied using the information
6 available as of such valuation date.

7 “(ii)(I) Clause (i) shall not apply for more than 2 con-
8 secutive plan years and valuation shall be under subpara-
9 graph (A) with respect to any plan year to which clause
10 (i) does not apply by reason of this subclause.

11 “(II) Clause (i) shall not apply to the extent that more
12 frequent valuations are required under the regulations
13 under subparagraph (A).

14 “(iii) Information under clause (i) shall, in accord-
15 ance with regulations, be actuarially adjusted to reflect sig-
16 nificant differences in participants.

17 “(iv) An election under this subparagraph, once made,
18 shall be irrevocable without the consent of the Secretary of
19 the Treasury.”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply to plan years beginning after December
22 31, 2000.

1 **SEC. 1362. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**
2 **LOSS OF DIVIDEND DEDUCTION.**

3 (a) *IN GENERAL.*—Section 404(k)(2)(A) (defining ap-
4 plicable dividends) is amended by striking “or” at the end
5 of clause (ii), by redesignating clause (iii) as clause (iv),
6 and by inserting after clause (ii) the following new clause:

7 “(iii) is, at the election of such partici-
8 pants or their beneficiaries—

9 “(I) payable as provided in clause
10 (i) or (ii), or

11 “(II) paid to the plan and rein-
12 vested in qualifying employer securi-
13 ties, or”.

14 (b) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to taxable years beginning after Decem-
16 ber 31, 2000.

17 **SEC. 1363. REPEAL OF TRANSITION RULE RELATING TO**
18 **CERTAIN HIGHLY COMPENSATED EMPLOY-**
19 **EES.**

20 (a) *IN GENERAL.*—Paragraph (4) of section 1114(c)
21 of the Tax Reform Act of 1986 is hereby repealed.

22 (b) *EFFECTIVE DATE.*—The repeal made by subsection
23 (a) shall apply to plan years beginning after December 31,
24 1999.

1 **SEC. 1364. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

2 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
3 *modify Treasury Regulations section 1.410(b)–6(g) to pro-*
4 *vide that employees of an organization described in section*
5 *403(b)(1)(A)(i) of the Internal Revenue Code of 1986 who*
6 *are eligible to make contributions under section 403(b) of*
7 *such Code pursuant to a salary reduction agreement may*
8 *be treated as excludable with respect to a plan under section*
9 *401 (k) or (m) of such Code that is provided under the same*
10 *general arrangement as a plan under such section 401(k),*
11 *if—*

12 (1) *no employee of an organization described in*
13 *section 403(b)(1)(A)(i) of such Code is eligible to par-*
14 *ticipate in such section 401(k) plan or section 401(m)*
15 *plan, and*

16 (2) *95 percent of the employees who are not em-*
17 *ployees of an organization described in section*
18 *403(b)(1)(A)(i) of such Code are eligible to partici-*
19 *pate in such plan under such section 401 (k) or (m).*

20 (b) *EFFECTIVE DATE.*—*The modification required by*
21 *subsection (a) shall apply as of the same date set forth in*
22 *section 1426(b) of the Small Business Job Protection Act*
23 *of 1996.*

1 **SEC. 1365. CLARIFICATION OF TREATMENT OF EMPLOYER-**
2 **PROVIDED RETIREMENT ADVICE.**

3 (a) *IN GENERAL.*—Subsection (a) of section 132 (relat-
4 ing to exclusion from gross income) is amended by striking
5 “or” at the end of paragraph (5), by striking the period
6 at the end of paragraph (6) and inserting “, or”, and by
7 adding at the end the following new paragraph:

8 “(7) *qualified retirement planning services.*”.

9 (b) *QUALIFIED RETIREMENT PLANNING SERVICES DE-*
10 *FINED.*—Section 132 is amended by redesignating sub-
11 section (m) as subsection (n) and by inserting after sub-
12 section (l) the following:

13 “(m) *QUALIFIED RETIREMENT PLANNING SERV-*
14 *ICES.*—

15 “(1) *IN GENERAL.*—For purposes of this section,
16 the term ‘*qualified retirement planning services*’
17 means any retirement planning service provided to
18 an employee and his spouse by an employer main-
19 taining a qualified employer plan.

20 “(2) *NONDISCRIMINATION RULE.*—Subsection
21 (a)(7) shall apply in the case of highly compensated
22 employees only if such services are available on sub-
23 stantially the same terms to each member of the group
24 of employees normally provided education and infor-
25 mation regarding the employer’s qualified employer
26 plan.

1 “(3) *QUALIFIED EMPLOYER PLAN.*—For purposes
2 of this subsection, the term ‘qualified employer plan’
3 means a plan, contract, pension, or account described
4 in section 219(g)(5).”.

5 (c) *EFFECTIVE DATE.*—The amendments made by this
6 section shall apply to years beginning after December 31,
7 2000.

8 **SEC. 1366. REPORTING SIMPLIFICATION.**

9 (a) *SIMPLIFIED ANNUAL FILING REQUIREMENT FOR*
10 *OWNERS AND THEIR SPOUSES.*—

11 (1) *IN GENERAL.*—The Secretary of the Treasury
12 shall modify the requirements for filing annual re-
13 turns with respect to one-participant retirement plans
14 to ensure that such plans with assets of \$250,000 or
15 less as of the close of the plan year need not file a
16 return for that year.

17 (2) *ONE-PARTICIPANT RETIREMENT PLAN DE-*
18 *FINED.*—For purposes of this subsection, the term
19 “one-participant retirement plan” means a retire-
20 ment plan that—

21 (A) on the first day of the plan year—

22 (i) covered only the employer (and the
23 employer’s spouse) and the employer owned
24 the entire business (whether or not incor-
25 porated), or

1 (ii) covered only one or more partners
2 (and their spouses) in a business partner-
3 ship (including partners in an S or C cor-
4 poration),

5 (B) meets the minimum coverage require-
6 ments of section 410(b) of the Internal Revenue
7 Code of 1986 without being combined with any
8 other plan of the business that covers the employ-
9 ees of the business,

10 (C) does not provide benefits to anyone ex-
11 cept the employer (and the employer's spouse) or
12 the partners (and their spouses),

13 (D) does not cover a business that is a
14 member of an affiliated service group, a con-
15 trolled group of corporations, or a group of busi-
16 nesses under common control, and

17 (E) does not cover a business that leases em-
18 ployees.

19 (3) *OTHER DEFINITIONS.*—Terms used in para-
20 graph (2) which are also used in section 414 of the
21 Internal Revenue Code of 1986 shall have the respec-
22 tive meanings given such terms by such section.

23 (b) *SIMPLIFIED ANNUAL FILING REQUIREMENT FOR*
24 *PLANS WITH FEWER THAN 25 EMPLOYEES.*—In the case
25 of a retirement plan which covers less than 25 employees

1 *on the first day of the plan year and meets the requirements*
2 *described in subparagraphs (B), (D), and (E) of subsection*
3 *(a)(2), the Secretary of the Treasury shall provide for the*
4 *filing of a simplified annual return that is substantially*
5 *similar to the annual return required to be filed by a one-*
6 *participant retirement plan.*

7 *(c) EFFECTIVE DATE.—The provisions of this section*
8 *shall take effect on January 1, 2001.*

9 **SEC. 1367. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**
10 **ANCE RESOLUTION SYSTEM.**

11 *The Secretary of the Treasury shall continue to update*
12 *and improve the Employee Plans Compliance Resolution*
13 *System (or any successor program) giving special attention*
14 *to—*

15 *(1) increasing the awareness and knowledge of*
16 *small employers concerning the availability and use*
17 *of the program,*

18 *(2) taking into account special concerns and cir-*
19 *cumstances that small employers face with respect to*
20 *compliance and correction of compliance failures,*

21 *(3) extending the duration of the self-correction*
22 *period under the Administrative Policy Regarding*
23 *Self-Correction for significant compliance failures,*

1 (4) *expanding the availability to correct insignificant compliance failures under the Administrative Policy Regarding Self-Correction during audit, and*

2
3
4 (5) *assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.*

8 **SEC. 1368. MODIFICATION OF EXCLUSION FOR EMPLOYER-**
9 **PROVIDED TRANSIT PASSES.**

10 (a) *IN GENERAL.*—Section 132(f)(3) (relating to cash
11 reimbursements) is amended by striking the last sentence.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply to taxable years beginning after Decem-
14 ber 31, 1999.

15 **SEC. 1369. REPEAL OF THE MULTIPLE USE TEST.**

16 (a) *IN GENERAL.*—Paragraph (9) of section 401(m) is
17 amended to read as follows:

18 “(9) *REGULATIONS.*—The Secretary shall pre-
19 scribe such regulations as may be necessary to carry
20 out the purposes of this subsection and subsection (k),
21 including regulations permitting appropriate aggrega-
22 tion of plans and contributions.”.

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 section shall apply to years beginning after December 31,
25 2000.

1 **SEC. 1370. FLEXIBILITY IN NONDISCRIMINATION, COV-**
2 **ERAGE, AND LINE OF BUSINESS RULES.**

3 (a) *NONDISCRIMINATION.*—

4 (1) *IN GENERAL.*—*The Secretary of the Treasury*
5 *shall, by regulation, provide that a plan shall be*
6 *deemed to satisfy the requirements of section*
7 *401(a)(4) of the Internal Revenue Code of 1986 if*
8 *such plan satisfies the facts and circumstances test*
9 *under section 401(a)(4) of such Code, as in effect be-*
10 *fore January 1, 1994, but only if—*

11 (A) *the plan satisfies conditions prescribed*
12 *by the Secretary to appropriately limit the*
13 *availability of such test, and*

14 (B) *the plan is submitted to the Secretary*
15 *for a determination of whether it satisfies such*
16 *test.*

17 *Subparagraph (B) shall only apply to the extent pro-*
18 *vided by the Secretary.*

19 (2) *EFFECTIVE DATES.*—

20 (A) *REGULATIONS.*—*The regulation re-*
21 *quired by paragraph (1) shall apply to years be-*
22 *ginning after December 31, 2000.*

23 (B) *CONDITIONS OF AVAILABILITY.*—*Any*
24 *condition of availability prescribed by the Sec-*
25 *retary under paragraph (1)(A) shall not apply*
26 *before the first year beginning not less than 120*

1 *days after the date on which such condition is*
2 *prescribed.*

3 **(b) COVERAGE TEST.—**

4 **(1) IN GENERAL.—***Section 410(b)(1) (relating to*
5 *minimum coverage requirements) is amended by add-*
6 *ing at the end the following:*

7 *“(D) In the case that the plan fails to meet*
8 *the requirements of subparagraphs (A), (B) and*
9 *(C), the plan—*

10 *“(i) satisfies subparagraph (B), as in*
11 *effect immediately before the enactment of*
12 *the Tax Reform Act of 1986,*

13 *“(ii) is submitted to the Secretary for*
14 *a determination of whether it satisfies the*
15 *requirement described in clause (i), and*

16 *“(iii) satisfies conditions prescribed by*
17 *the Secretary by regulation that appro-*
18 *priately limit the availability of this sub-*
19 *paragraph.*

20 *Clause (ii) shall apply only to the extent pro-*
21 *vided by the Secretary.”.*

22 **(2) EFFECTIVE DATES.—**

23 **(A) IN GENERAL.—***The amendment made*
24 *by paragraph (1) shall apply to years beginning*
25 *after December 31, 2000.*

1 (B) *CONDITIONS OF AVAILABILITY.*—Any
2 condition of availability prescribed by the Sec-
3 retary under regulations prescribed by the Sec-
4 retary under section 410(b)(1)(D) of the Internal
5 Revenue Code of 1986 shall not apply before the
6 first year beginning not less than 120 days after
7 the date on which such condition is prescribed.

8 (c) *LINE OF BUSINESS RULES.*—The Secretary of the
9 Treasury shall, on or before December 31, 2000, modify the
10 existing regulations issued under section 414(r) of the Inter-
11 nal Revenue Code of 1986 in order to expand (to the extent
12 that the Secretary determines appropriate) the ability of
13 a pension plan to demonstrate compliance with the line of
14 business requirements based upon the facts and cir-
15 cumstances surrounding the design and operation of the
16 plan, even though the plan is unable to satisfy the mechan-
17 ical tests currently used to determine compliance.

18 **SEC. 1371. EXTENSION TO INTERNATIONAL ORGANIZA-**
19 **TIONS OF MORATORIUM ON APPLICATION OF**
20 **CERTAIN NONDISCRIMINATION RULES APPLI-**
21 **CABLE TO STATE AND LOCAL PLANS.**

22 (a) *IN GENERAL.*—Subparagraph (G) of section
23 401(a)(5), subparagraph (H) of section 401(a)(26), sub-
24 paragraph (G) of section 401(k)(3), and paragraph (2) of
25 section 1505(d) of the Taxpayer Relief Act of 1997 are each

1 *amended by inserting “or by an international organization*
2 *which is described in section 414(d)” after “or instrumen-*
3 *tality thereof”.*

4 *(b) CONFORMING AMENDMENTS.—*

5 *(1) The headings for subparagraph (G) of section*
6 *401(a)(5) and subparagraph (H) of section*
7 *401(a)(26) are each amended by inserting “AND*
8 *INTERNATIONAL ORGANIZATION” after “GOVERN-*
9 *MENTAL”.*

10 *(2) Subparagraph (G) of section 401(k)(3) is*
11 *amended by inserting “STATE AND LOCAL GOVERN-*
12 *MENTAL AND INTERNATIONAL ORGANIZATION*
13 *PLANS.—” after “(G)”.*

14 *(c) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to years beginning after December 31,*
16 *2000.*

17 **PART VI—PLAN AMENDMENTS**

18 **SEC. 1381. PROVISIONS RELATING TO PLAN AMENDMENTS.**

19 *(a) IN GENERAL.—If this section applies to any plan*
20 *or contract amendment—*

21 *(1) such plan or contract shall be treated as*
22 *being operated in accordance with the terms of the*
23 *plan during the period described in subsection*

24 *(b)(2)(A), and*

1 (2) *such plan shall not fail to meet the require-*
2 *ments of section 411(d)(6) of the Internal Revenue*
3 *Code of 1986 by reason of such amendment.*

4 *(b) AMENDMENTS TO WHICH SECTION APPLIES.—*

5 (1) *IN GENERAL.—This section shall apply to*
6 *any amendment to any plan or annuity contract*
7 *which is made—*

8 (A) *pursuant to any amendment made by*
9 *this title, or pursuant to any regulation issued*
10 *under this title, and*

11 (B) *on or before the last day of the first*
12 *plan year beginning on or after January 1,*
13 *2003.*

14 *In the case of a government plan (as defined in sec-*
15 *tion 414(d) of the Internal Revenue Code of 1986),*
16 *this paragraph shall be applied by substituting*
17 *“2005” for “2003”.*

18 (2) *CONDITIONS.—This section shall not apply to*
19 *any amendment unless—*

20 (A) *during the period—*

21 (i) *beginning on the date the legislative*
22 *or regulatory amendment described in para-*
23 *graph (1)(A) takes effect (or in the case of*
24 *a plan or contract amendment not required*
25 *by such legislative or regulatory amend-*

1 ment, the effective date specified by the
2 plan), and

3 (ii) ending on the date described in
4 paragraph (1)(B) (or, if earlier, the date the
5 plan or contract amendment is adopted),
6 the plan or contract is operated as if such plan
7 or contract amendment were in effect, and

8 (B) such plan or contract amendment ap-
9 plies retroactively for such period.

10 **Subtitle D—Revenue Provisions**

11 **SEC. 1391. MODIFICATION OF INSTALLMENT METHOD AND** 12 **REPEAL OF INSTALLMENT METHOD FOR AC-** 13 **CRUAL METHOD TAXPAYERS.**

14 (a) *REPEAL OF INSTALLMENT METHOD FOR ACCRUAL*
15 *BASIS TAXPAYERS.*—

16 (1) *IN GENERAL.*—Subsection (a) of section 453
17 (relating to installment method) is amended to read
18 as follows:

19 “(a) *USE OF INSTALLMENT METHOD.*—

20 “(1) *IN GENERAL.*—Except as otherwise provided
21 in this section, income from an installment sale shall
22 be taken into account for purposes of this title under
23 the installment method.

24 “(2) *ACCRUAL METHOD TAXPAYER.*—The install-
25 ment method shall not apply to income from an in-

1 *installment sale if such income would be reported under*
2 *an accrual method of accounting without regard to*
3 *this section. The preceding sentence shall not apply to*
4 *a disposition described in subparagraph (A) or (B) of*
5 *subsection (l)(2).”.*

6 (2) *CONFORMING AMENDMENTS.—Sections*
7 *453(d)(1), 453(i)(1), and 453(k) of such Code are each*
8 *amended by striking “(a)” each place it appears and*
9 *inserting “(a)(1)”.*

10 (b) *MODIFICATION OF PLEDGE RULES.—Paragraph*
11 *(4) of section 453A(d) (relating to pledges, etc., of install-*
12 *ment obligations) is amended by adding at the end the fol-*
13 *lowing: “A payment shall be treated as directly secured by*
14 *an interest in an installment obligation to the extent an*
15 *arrangement allows the taxpayer to satisfy all or a portion*
16 *of the indebtedness with the installment obligation.”.*

17 (c) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to sales or other dispositions occurring*
19 *on or after the date of the enactment of this Act.*

20 **SEC. 1392. MODIFICATION OF ESTIMATED TAX RULES FOR**
21 **CLOSELY HELD REAL ESTATE INVESTMENT**
22 **TRUSTS.**

23 (a) *IN GENERAL.—Subsection (e) of section 6655 (re-*
24 *lating to estimated tax by corporations) is amended by add-*
25 *ing at the end the following new paragraph:*

1 “(5) *TREATMENT OF CERTAIN REIT DIVI-*
2 *DENDS.—*—

3 “(A) *IN GENERAL.—Any dividend received*
4 *from a closely held real estate investment trust*
5 *by any person which owns (after application of*
6 *subsections (d)(5) and (l)(3)(B) of section 856*
7 *10 percent or more (by vote or value) of the stock*
8 *or beneficial interests in the trust shall be taken*
9 *into account in computing annualized income*
10 *installments under paragraph (2) in a manner*
11 *similar to the manner under which partnership*
12 *income inclusions are taken into account.*

13 “(B) *CLOSELY HELD REIT.—For purposes*
14 *of subparagraph (A), the term ‘closely held real*
15 *estate investment trust’ means a real estate in-*
16 *vestment trust with respect to which 5 or fewer*
17 *persons own (after application of subsections*
18 *(d)(5) and (l)(3)(B) of section 856) 50 percent or*
19 *more (by vote or value) of the stock or beneficial*
20 *interests in the trust.”*

21 “(b) *EFFECTIVE DATE.—The amendment made by sub-*
22 *section (a) shall apply to estimated tax payments due on*
23 *or after November 15, 1999.*

1 **TITLE XIV—TECHNICAL**
2 **AMENDMENTS**

3 **SEC. 1401. DEFINITIONS.**

4 Section 101 of title 11, United States Code, as amend-
5 ed by section 1003 of this Act, is amended—

6 (1) by striking “In this title—” and inserting
7 “In this title.”;

8 (2) in each paragraph, by inserting “The term”
9 after the paragraph designation;

10 (3) in paragraph (35)(B), by striking “para-
11 graphs (21B) and (33)(A)” and inserting “para-
12 graphs (23) and (35)”;

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

15 (5) in paragraph (51B)—

16 (A) by inserting “who is not a family farm-
17 er” after “debtor” the first place it appears; and

18 (B) by striking “thereto having aggregate”
19 and all that follows through the end of the para-
20 graph;

21 (6) by striking paragraph (54) and inserting the
22 following:

23 “(54) The term ‘transfer’ means—

24 “(A) the creation of a lien;

1 “(B) the retention of title as a security in-
2 terest;

3 “(C) the foreclosure of a debtor’s equity of
4 redemption; or

5 “(D) each mode, direct or indirect, absolute
6 or conditional, voluntary or involuntary, of dis-
7 posing of or parting with—

8 “(i) property; or

9 “(ii) an interest in property;”;

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

16 (8) by redesignating paragraphs (4) through
17 (55), including paragraph (54), as amended by para-
18 graph (6) of this section, in entirely numerical se-
19 quence.

20 **SEC. 1402. ADJUSTMENT OF DOLLAR AMOUNTS.**

21 Section 104 of title 11, United States Code, is amended
22 by inserting “522(f)(3),” after “522(d),” each place it ap-
23 pears.

1 **SEC. 1403. EXTENSION OF TIME.**

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

5 **SEC. 1404. TECHNICAL AMENDMENTS.**

6 *Title 11, United States Code, is amended—*

7 *(1) in section 109(b)(2), by striking “subsection*
8 *(c) or (d) of”; and*

9 *(2) in section 552(b)(1), by striking “product”*
10 *each place it appears and inserting “products”.*

11 **SEC. 1405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR**
12 **FRAUDULENTLY PREPARE BANKRUPTCY PE-**
13 **TITIONS.**

14 *Section 110(j)(3) of title 11, United States Code, is*
15 *amended by striking “attorney’s” and inserting “attor-*
16 *neys’”.*

17 **SEC. 1406. LIMITATION ON COMPENSATION OF PROFES-**
18 **SIONAL PERSONS.**

19 *Section 328(a) of title 11, United States Code, is*
20 *amended by inserting “on a fixed or percentage fee basis,”*
21 *after “hourly basis,”.*

22 **SEC. 1407. EFFECT OF CONVERSION.**

23 *Section 348(f)(2) of title 11, United States Code, is*
24 *amended by inserting “of the estate” after “property” the*
25 *first place it appears.*

1 **SEC. 1408. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

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

5 **SEC. 1409. EXCEPTIONS TO DISCHARGE.**

6 *Section 523 of title 11, United States Code, as amend-*
7 *ed by section 714 of this Act, is amended—*

8 *(1) as amended by section 304(e) of Public Law*
9 *103–394 (108 Stat. 4133), in paragraph (15), by*
10 *transferring such paragraph so as to insert such*
11 *paragraph after paragraph (14) of subsection (a);*

12 *(2) in subsection (a)(9), by striking “motor vehi-*
13 *cle or vessel” and inserting “motor vehicle, vessel, or*
14 *aircraft”; and*

15 *(3) in subsection (e), by striking “a insured”*
16 *and inserting “an insured”.*

17 **SEC. 1410. EFFECT OF DISCHARGE.**

18 *Section 524(a)(3) of title 11, United States Code, is*
19 *amended by striking “section 523” and all that follows*
20 *through “or that” and inserting “section 523, 1228(a)(1),*
21 *or 1328(a)(1), or that”.*

22 **SEC. 1411. PROTECTION AGAINST DISCRIMINATORY TREAT-**
23 **MENT.**

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

1 (1) *in paragraph (1), by inserting “student” be-*
2 *fore “grant” the second place it appears; and*

3 (2) *in paragraph (2), by striking “the program*
4 *operated under part B, D, or E of” and inserting*
5 *“any program operated under”.*

6 **SEC. 1412. PROPERTY OF THE ESTATE.**

7 *Section 541(b)(4)(B)(ii) of title 11, United States*
8 *Code, is amended by inserting “365 or” before “542”.*

9 **SEC. 1413. PREFERENCES.**

10 (a) *IN GENERAL.*—*Section 547 of title 11, United*
11 *States Code, as amended by section 201(b) of this Act, is*
12 *amended—*

13 (1) *in subsection (b), by striking “subsection (c)”*
14 *and inserting “subsections (c) and (i)”;* and

15 (2) *by adding at the end the following:*

16 “(i) *If the trustee avoids under subsection (b) a secu-*
17 *rity interest given between 90 days and 1 year before the*
18 *date of the filing of the petition, by the debtor to an entity*
19 *that is not an insider for the benefit of a creditor that is*
20 *an insider, such security interest shall be considered to be*
21 *avoided under this section only with respect to the creditor*
22 *that is an insider.”.*

23 (b) *APPLICABILITY.*—*The amendments made by this*
24 *section shall apply to any case that pending or commenced*
25 *on or after the date of enactment of this Act.*

1 **SEC. 1414. POSTPETITION TRANSACTIONS.**

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

4 *(1) by inserting “an interest in” after “transfer*
5 *of”;*

6 *(2) by striking “such property” and inserting*
7 *“such real property”; and*

8 *(3) by striking “the interest” and inserting*
9 *“such interest”.*

10 **SEC. 1415. DISPOSITION OF PROPERTY OF THE ESTATE.**

11 *Section 726(b) of title 11, United States Code, is*
12 *amended by striking “1009.”.*

13 **SEC. 1416. GENERAL PROVISIONS.**

14 *Section 901(a) of title 11, United States Code, as*
15 *amended by section 502 of this Act, is amended by inserting*
16 *“1123(d),” after “1123(b),”.*

17 **SEC. 1417. ABANDONMENT OF RAILROAD LINE.**

18 *Section 1170(e)(1) of title 11, United States Code, is*
19 *amended by striking “section 11347” and inserting “section*
20 *11326(a)”.*

21 **SEC. 1418. CONTENTS OF PLAN.**

22 *Section 1172(c)(1) of title 11, United States Code, is*
23 *amended by striking “section 11347” and inserting “section*
24 *11326(a)”.*

1 **SEC. 1419. DISCHARGE UNDER CHAPTER 12.**

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

5 **SEC. 1420. BANKRUPTCY CASES AND PROCEEDINGS.**

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

8 *(1) by striking “made under this subsection” and*
9 *inserting “made under subsection (c)”;* and

10 *(2) by striking “This subsection” and inserting*
11 *“Subsection (c) and this subsection”.*

12 **SEC. 1421. KNOWING DISREGARD OF BANKRUPTCY LAW OR**
13 **RULE.**

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

16 *(1) in the first undesignated paragraph—*

17 *(A) by inserting “(1) the term” before*
18 *“bankruptcy”;* and

19 *(B) by striking the period at the end and*
20 *inserting “; and”;* and

21 *(2) in the second undesignated paragraph—*

22 *(A) by inserting “(2) the term” before “doc-*
23 *ument”;* and

24 *(B) by striking “this title” and inserting*
25 *“title 11”.*

1 **SEC. 1422. TRANSFERS MADE BY NONPROFIT CHARITABLE**
2 **CORPORATIONS.**

3 (a) *SALE OF PROPERTY OF ESTATE.*—Section 363(d)
4 of title 11, United States Code, is amended by striking
5 “only” and all that follows through the end of the subsection
6 and inserting “only—

7 “(1) in accordance with applicable nonbank-
8 ruptcy law that governs the transfer of property by
9 a corporation or trust that is not a moneyed, busi-
10 ness, or commercial corporation or trust; and

11 “(2) to the extent not inconsistent with any relief
12 granted under subsection (c), (d), (e), or (f) of section
13 362.”.

14 (b) *CONFIRMATION OF PLAN FOR REORGANIZATION.*—
15 Section 1129(a) of title 11, United States Code, as amended
16 by section 212 of this Act, is amended by adding at the
17 end the following:

18 “(15) All transfers of property of the plan shall
19 be made in accordance with any applicable provisions
20 of nonbankruptcy law that govern the transfer of
21 property by a corporation or trust that is not a
22 moneyed, business, or commercial corporation or
23 trust.”.

24 (c) *TRANSFER OF PROPERTY.*—Section 541 of title 11,
25 United States Code, is amended by adding at the end the
26 following:

1 “(f) Notwithstanding any other provision of this title,
2 property that is held by a debtor that is a corporation de-
3 scribed in section 501(c)(3) of the Internal Revenue Code
4 of 1986 and exempt from tax under section 501(a) of such
5 Code may be transferred to an entity that is not such a
6 corporation, but only under the same conditions as would
7 apply if the debtor had not filed a case under this title.”.

8 (d) *APPLICABILITY.*—The amendments made by this
9 section shall apply to a case pending under title 11, United
10 States Code, on the date of enactment of this Act, except
11 that the court shall not confirm a plan under chapter 11
12 of this title without considering whether this section would
13 substantially affect the rights of a party in interest who
14 first acquired rights with respect to the debtor after the date
15 of the petition. The parties who may appear and be heard
16 in a proceeding under this section include the attorney gen-
17 eral of the State in which the debtor is incorporated, was
18 formed, or does business.

19 (e) *RULE OF CONSTRUCTION.*—Nothing in this section
20 shall be construed to require the court in which a case under
21 chapter 11 is pending to remand or refer any proceeding,
22 issue, or controversy to any other court or to require the
23 approval of any other court for the transfer of property.

1 **SEC. 1423. PROTECTION OF VALID PURCHASE MONEY SECUR-**
2 **RITY INTERESTS.**

3 *Section 547(c)(3)(B) of title 11, United States Code,*
4 *is amended by striking “20” and inserting “30”.*

5 **SEC. 1424. EXTENSIONS.**

6 *Section 302(d)(3) of the Bankruptcy, Judges, United*
7 *States Trustees, and Family Farmer Bankruptcy Act of*
8 *1986 (28 U.S.C. 581 note) is amended—*

9 *(1) in subparagraph (A), in the matter following*
10 *clause (i), by striking “or October 1, 2002, whichever*
11 *occurs first”; and*

12 *(2) in subparagraph (F)—*

13 *(A) in clause (i)—*

14 *(i) in subclause (II), by striking “or*
15 *October 1, 2002, whichever occurs first”;*
16 *and*

17 *(ii) in the matter following subclause*
18 *(II), by striking “October 1, 2003, or”; and*
19 *(B) in clause (i), in the matter following*
20 *subclause (II)—*

21 *(i) by striking “before October 1, 2003,*
22 *or”; and*

23 *(ii) by striking “, whichever occurs*
24 *first”.*

1 **SEC. 1425. BANKRUPTCY JUDGESHIPS.**

2 (a) *SHORT TITLE.*—*This section may be cited as the*
3 *“Bankruptcy Judgeship Act of 2000”.*

4 (b) *TEMPORARY JUDGESHIPS.*—

5 (1) *APPOINTMENTS.*—*The following judgeship*
6 *positions shall be filled in the manner prescribed in*
7 *section 152(a)(1) of title 28, United States Code, for*
8 *the appointment of bankruptcy judges provided for in*
9 *section 152(a)(2) of such title:*

10 (A) *One additional bankruptcy judgeship*
11 *for the eastern district of California.*

12 (B) *Four additional bankruptcy judgeships*
13 *for the central district of California.*

14 (C) *One additional bankruptcy judgeship*
15 *for the southern district of Florida.*

16 (D) *Two additional bankruptcy judgeships*
17 *for the district of Maryland.*

18 (E) *One additional bankruptcy judgeship*
19 *for the eastern district of Michigan.*

20 (F) *One additional bankruptcy judgeship*
21 *for the southern district of Mississippi.*

22 (G) *One additional bankruptcy judgeship*
23 *for the district of New Jersey.*

24 (H) *One additional bankruptcy judgeship*
25 *for the eastern district of New York.*

1 (I) *One additional bankruptcy judgeship for*
2 *the northern district of New York.*

3 (J) *One additional bankruptcy judgeship*
4 *for the southern district of New York.*

5 (K) *One additional bankruptcy judgeship*
6 *for the eastern district of Pennsylvania.*

7 (L) *One additional bankruptcy judgeship*
8 *for the middle district of Pennsylvania.*

9 (M) *One additional bankruptcy judgeship*
10 *for the western district of Tennessee.*

11 (N) *One additional bankruptcy judgeship*
12 *for the eastern district of Virginia.*

13 (2) *VACANCIES.—The first vacancy occurring in*
14 *the office of a bankruptcy judge in each of the judicial*
15 *districts set forth in paragraph (1) that—*

16 (A) *results from the death, retirement, res-*
17 *ignation, or removal of a bankruptcy judge; and*

18 (B) *occurs 5 years or more after the ap-*
19 *pointment date of a bankruptcy judge appointed*
20 *under paragraph (1);*

21 *shall not be filled.*

22 (c) *EXTENSIONS.—*

23 (1) *IN GENERAL.—The temporary bankruptcy*
24 *judgeship positions authorized for the northern dis-*
25 *trict of Alabama, the district of Delaware, the district*

1 *of Puerto Rico, the district of South Carolina, and the*
2 *eastern district of Tennessee under section 3(a) (1),*
3 *(3), (7), (8), and (9) of the Bankruptcy Judgeship Act*
4 *of 1992 (28 U.S.C. 152 note) are extended until the*
5 *first vacancy occurring in the office of a bankruptcy*
6 *judge in the applicable district resulting from the*
7 *death, retirement, resignation, or removal of a bank-*
8 *ruptcy judge and occurring—*

9 *(A) 8 years or more after November 8, 1993,*
10 *with respect to the northern district of Alabama;*

11 *(B) 10 years or more after October 28,*
12 *1993, with respect to the district of Delaware;*

13 *(C) 8 years or more after August 29, 1994,*
14 *with respect to the district of Puerto Rico;*

15 *(D) 8 years or more after June 27, 1994,*
16 *with respect to the district of South Carolina;*

17 *and*

18 *(E) 8 years or more after November 23,*
19 *1993, with respect to the eastern district of Ten-*
20 *nessee.*

21 *(2) APPLICABILITY OF OTHER PROVISIONS.—All*
22 *other provisions of section 3 of the Bankruptcy Judge-*
23 *ship Act of 1992 remain applicable to such temporary*
24 *judgeship positions.*

1 (d) *TECHNICAL AMENDMENT.*—*The first sentence of*
2 *section 152(a)(1) of title 28, United States Code, is amend-*
3 *ed to read as follows: “Each bankruptcy judge to be ap-*
4 *pointed for a judicial district as provided in paragraph (2)*
5 *shall be appointed by the United States court of appeals*
6 *for the circuit in which such district is located.”.*

7 **SEC. 1426. FAMILY FISHERMEN.**

8 (a) *DEFINITIONS.*—*Section 101 of title 11, United*
9 *States Code, is amended—*

10 (1) *by inserting after paragraph (7) the fol-*
11 *lowing:*

12 “(7A) ‘commercial fishing operation’ includes—

13 “(A) *the catching or harvesting of fish,*
14 *shrimp, lobsters, urchins, seaweed, shellfish, or*
15 *other aquatic species or products;*

16 “(B) *for purposes of section 109 and chap-*
17 *ter 12, aquaculture activities consisting of rais-*
18 *ing for market any species or product described*
19 *in subparagraph (A); and*

20 “(C) *the transporting by vessel of a pas-*
21 *senger for hire (as defined in section 2101 of title*
22 *46) who is engaged in recreational fishing;*

23 “(7B) ‘commercial fishing vessel’ means a vessel
24 *used by a fisherman to carry out a commercial fish-*
25 *ing operation;”;*

1 (2) *by inserting after paragraph (19) the fol-*
2 *lowing:*

3 “(19A) *‘family fisherman’ means—*

4 “(A) *an individual or individual and*
5 *spouse engaged in a commercial fishing oper-*
6 *ation (including aquaculture for purposes of*
7 *chapter 12)—*

8 “(i) *whose aggregate debts do not ex-*
9 *ceed \$1,500,000 and not less than 80 per-*
10 *cent of whose aggregate noncontingent, liq-*
11 *uidated debts (excluding a debt for the prin-*
12 *cipal residence of such individual or such*
13 *individual and spouse, unless such debt*
14 *arises out of a commercial fishing oper-*
15 *ation), on the date the case is filed, arise*
16 *out of a commercial fishing operation*
17 *owned or operated by such individual or*
18 *such individual and spouse; and*

19 “(ii) *who receive from such commercial*
20 *fishing operation more than 50 percent of*
21 *such individual’s or such individual’s and*
22 *spouse’s gross income for the taxable year*
23 *preceding the taxable year in which the case*
24 *concerning such individual or such indi-*
25 *vidual and spouse was filed; or*

1 “(B) a corporation or partnership—

2 “(i) in which more than 50 percent of
3 the outstanding stock or equity is held by—

4 “(I) 1 family that conducts the
5 commercial fishing operation; or

6 “(II) 1 family and the relatives of
7 the members of such family, and such
8 family or such relatives conduct the
9 commercial fishing operation; and

10 “(ii)(I) more than 80 percent of the
11 value of its assets consists of assets related
12 to the commercial fishing operation;

13 “(II) its aggregate debts do not exceed
14 \$1,500,000 and not less than 80 percent of
15 its aggregate noncontingent, liquidated
16 debts (excluding a debt for 1 dwelling which
17 is owned by such corporation or partner-
18 ship and which a shareholder or partner
19 maintains as a principal residence, unless
20 such debt arises out of a commercial fishing
21 operation), on the date the case is filed,
22 arise out of a commercial fishing operation
23 owned or operated by such corporation or
24 such partnership; and

1 “(III) if such corporation issues stock,
2 such stock is not publicly traded;” and

3 (3) by inserting after paragraph (19A) the fol-
4 lowing:

5 “(19B) ‘family fisherman with regular annual
6 income’ means a family fisherman whose annual in-
7 come is sufficiently stable and regular to enable such
8 family fisherman to make payments under a plan
9 under chapter 12 of this title;”.

10 (b) *WHO MAY BE A DEBTOR*.—Section 109(f) of title
11 11, United States Code, is amended by inserting “or family
12 fisherman” after “family farmer”.

13 (c) *CHAPTER 12*.—Chapter 12 of title 11, United
14 States Code, is amended—

15 (1) in the chapter heading, by inserting “**OR**
16 **FISHERMAN**” after “**FAMILY FARMER**”;

17 (2) in section 1201, by adding at the end the fol-
18 lowing:

19 “(e)(1) Notwithstanding any other provision of law,
20 for purposes of this subsection, a guarantor of a claim of
21 a creditor under this section shall be treated in the same
22 manner as a creditor with respect to the operation of a stay
23 under this section.

24 “(2) For purposes of a claim that arises from the own-
25 ership or operation of a commercial fishing operation, a

1 *co-maker of a loan made by a creditor under this section*
2 *shall be treated in the same manner as a creditor with re-*
3 *spect to the operation of a stay under this section.”;*

4 (3) *in section 1203, by inserting “or commercial*
5 *fishing operation” after “farm”;*

6 (4) *in section 1206, by striking “if the property*
7 *is farmland or farm equipment” and inserting “if the*
8 *property is farmland, farm equipment, or property of*
9 *a commercial fishing operation (including a commer-*
10 *cial fishing vessel)”;* and

11 (5) *by adding at the end the following:*

12 **“§ 1232. Additional provisions relating to family fish-**
13 **ermen**

14 “(a)(1) *Notwithstanding any other provision of law,*
15 *except as provided in subsection (c), with respect to any*
16 *commercial fishing vessel of a family fisherman, the debts*
17 *of that family fisherman shall be treated in the manner pre-*
18 *scribed in paragraph (2).*

19 “(2)(A) *For purposes of this chapter, a claim for a*
20 *lien described in subsection (b) for a commercial fishing ves-*
21 *sel of a family fisherman that could, but for this subsection,*
22 *be subject to a lien under otherwise applicable maritime*
23 *law, shall be treated as an unsecured claim.*

1 “(B) Subparagraph (A) applies to a claim for a lien
2 resulting from a debt of a family fisherman incurred on
3 or after the date of enactment of this chapter.

4 “(b) A lien described in this subsection is—

5 “(1) a maritime lien under subchapter III of
6 chapter 313 of title 46 without regard to whether that
7 lien is recorded under section 31343 of title 46; or

8 “(2) a lien under applicable State law (or the
9 law of a political subdivision thereof).

10 “(c) Subsection (a) shall not apply to—

11 “(1) a claim made by a member of a crew or a
12 seaman including a claim made for—

13 “(A) wages, maintenance, or cure; or

14 “(B) personal injury; or

15 “(2) a preferred ship mortgage that has been per-
16 fected under subchapter II of chapter 313 of title 46.

17 “(d) For purposes of this chapter, a mortgage described
18 in subsection (c)(2) shall be treated as a secured claim.”.

19 (d) CLERICAL AMENDMENTS.—

20 (1) TABLE OF CHAPTERS.—In the table of chap-
21 ters for title 11, United States Code, the item relating
22 to chapter 12, is amended to read as follows:

**“12. Adjustments of Debts of a Family Farmer or Family
Fisherman with Regular Annual Income 1201”.**

1 (2) *TABLE OF SECTIONS.*—*The table of sections*
2 *for chapter 12 of title 11, United States Code, is*
3 *amended by adding at the end the following new item:*
 “1232. *Additional provisions relating to family fishermen.*”

4 (e) *MAGNUSON-STEVEN'S FISHERY CONSERVATION AND*
5 *MANAGEMENT ACT.*—*Nothing in this title is intended to*
6 *change, affect, or amend the Magnuson-Stevens Fishery*
7 *Conservation and Management Act (16 U.S.C. 1801 et seq.).*

8 **SEC. 1427. COMPENSATING TRUSTEES.**

9 *Title 11, United States Code, is amended—*

10 (1) *in section 104(b)(1) in the matter preceding*
11 *subparagraph (A) by—*

12 (A) *striking “and 523(a)(2)(C)”;* and

13 (B) *inserting “523(a)(2)(C), and*
14 *1326(b)(3)” before “immediately”;*

15 (2) *in section 326, by inserting at the end the*
16 *following:*

17 “*(e) Notwithstanding any other provision of this sec-*
18 *tion, if a trustee in a chapter 7 case commences a motion*
19 *to dismiss or convert under section 707(b) and such motion*
20 *is granted, the court shall allow reasonable compensation*
21 *under section 330(a) of this title for the services and ex-*
22 *penses of the trustee and the trustee’s counsel in preparing*
23 *and presenting such motion and any related appeals.”; and*

24 (3) *in section 1326(b)—*

25 (A) *in paragraph (1), by striking “and”;*

1 (B) in paragraph (2), by striking the period
2 at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(3) if a chapter 7 trustee has been allowed com-
5 pensation under section 326(e) in a case converted to
6 this chapter or in a case dismissed under section
7 707(b) in which the debtor in this case was a
8 debtor—

9 “(A) the amount of such unpaid compensa-
10 tion which shall be paid monthly by prorating
11 such amount over the remaining duration of the
12 plan, but a monthly payment shall not exceed
13 the greater of—

14 “(i) \$25; or

15 “(ii) the amount payable to unsecured
16 nonpriority creditors as provided by the
17 plan multiplied by 5 percent, and the result
18 divided by the number of months in the
19 plan; and

20 “(B) notwithstanding any other provision
21 of this title—

22 “(i) such compensation is payable and
23 may be collected by the trustee under this
24 paragraph even if such amount has been

1 *discharged in a prior proceeding under this*
2 *title; and*

3 “(ii) such compensation is payable in
4 a case under this chapter only to the extent
5 permitted by this paragraph.”.

6 **SEC. 1428. AMENDMENT TO SECTION 362 OF TITLE 11,**
7 **UNITED STATES CODE.**

8 *Section 362(b)(18) of title 11, United States Code, is*
9 *amended to read as follows:*

10 “(18) under subsection (a) of the creation or per-
11 fection of a statutory lien for an ad valorem property
12 tax, or a special tax or special assessment on real
13 property whether or not ad valorem, imposed by a
14 governmental unit, if such tax or assessment comes
15 due after the filing of the petition.”.

16 **SEC. 1429. PROVISION OF ELECTRONIC FTC PAMPHLET**
17 **WITH ELECTRONIC CREDIT CARD APPLICA-**
18 **TIONS AND SOLICITATIONS.**

19 *Section 127(c) of the Truth in Lending Act (15 U.S.C.*
20 *1637(c)) is amended—*

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) *INCLUSION OF FEDERAL TRADE COMMISSION*
2 *PAMPHLET.*—

3 “(A) *IN GENERAL.*—*Any application to*
4 *open a credit card account for any person under*
5 *an open end consumer credit plan, or a sollicita-*
6 *tion or an advertisement to open such an ac-*
7 *count without requiring an application, that is*
8 *electronically transmitted to or accessed by a*
9 *consumer shall be accompanied by an electronic*
10 *version (or an electronic link thereto) of the*
11 *pamphlet published by the Federal Trade Com-*
12 *mission relating to choosing and using credit*
13 *cards.*

14 “(B) *COSTS.*—*The card issuer with respect*
15 *to an account described in subparagraph (A)*
16 *shall be responsible for all costs associated with*
17 *compliance with that subparagraph.”.*

18 **SEC. 1430. NO BANKRUPTCY FOR INSOLVENT POLITICAL**
19 **COMMITTEES.**

20 *Section 105 of title 11, United States Code, is amended*
21 *by inserting at the end the following:*

22 “(e) *A political committee subject to the jurisdiction*
23 *of the Federal Election Commission under Federal election*
24 *laws may not file for bankruptcy under this title.”.*

1 **SEC. 1431. FEDERAL ELECTION LAW FINES AND PENALTIES**
2 **AS NONDISCHARGEABLE DEBT.**

3 *Section 523(a) of title 11, United States Code, is*
4 *amended by inserting after paragraph (14A) the following:*

5 *“(14B) fines or penalties imposed under Federal*
6 *election law;”.*

7 **SEC. 1432. PROHIBITION ON CERTAIN RETROACTIVE FI-**
8 **NANCE CHARGES.**

9 *Section 127 of the Truth in Lending Act (15 U.S.C.*
10 *1637) is amended by adding at the end the following:*

11 *“(h) PROHIBITION ON RETROACTIVE FINANCE*
12 *CHARGES.—*

13 *“(1) IN GENERAL.—In the case of any credit*
14 *card account under an open end credit plan, if the*
15 *creditor provides a grace period applicable to any*
16 *new extension of credit under the account, no finance*
17 *charge may be imposed subsequent to the grace period*
18 *with regard to any amount that was paid on or be-*
19 *fore the end of that grace period.*

20 *“(2) DEFINITION.—For purposes of this sub-*
21 *section, the term ‘grace period’ means a period during*
22 *which the extension of credit may be repaid, in whole*
23 *or in part, without incurring a finance charge for the*
24 *extension of credit.”.*

1 **SEC. 1433. SENSE OF SENATE CONCERNING CREDIT WOR-**
2 **THINESS.**

3 *The Board of Governors of the Federal Reserve System*
4 *shall report to the Senate Committee on Banking, Housing,*
5 *and Urban Affairs and the House of Representatives Com-*
6 *mittee on Banking and Financial Services within 6 months*
7 *of enactment of this Act as to whether and how the location*
8 *of the residence of an applicant for a credit card is consid-*
9 *ered by financial institutions in deciding whether an appli-*
10 *cant should be granted such credit card.*

11 **SEC. 1434. JUDICIAL EDUCATION.**

12 *The Director of the Administrative Office of the United*
13 *States Courts, in consultation with the Director of the Exec-*
14 *utive Office for United States Trustees, shall develop mate-*
15 *rials and conduct such training as may be useful to courts*
16 *in implementing this Act, including the requirements relat-*
17 *ing to the 707(b) means test and reaffirmations.*

18 **SEC. 1435. UNITED STATES TRUSTEE PROGRAM FILING FEE**
19 **INCREASE.**

20 *(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section*
21 *546(c) of title 11, United States Code, is amended to read*
22 *as follows:*

23 *“(c)(1) Except as provided in subsection (d) of*
24 *this section, and except as provided in subsection (c)*
25 *of section 507, the rights and powers of the trustee*
26 *under sections 544(a), 545, 547, and 549 are subject*

1 *to the right of a seller of goods that has sold goods to*
2 *the debtor, in the ordinary course of the business of*
3 *the seller, to reclaim such goods if the debtor has re-*
4 *ceived such goods within 45 days prior to the com-*
5 *mencement of a case under this title, but such seller*
6 *may not reclaim any such goods unless the seller de-*
7 *mands in writing the reclamation of such goods—*

8 *“(A) before 45 days after the date of receipt*
9 *of such goods by the debtor; or*

10 *“(B) if such 45-day period expires after the*
11 *commencement of the case, before 20 days after*
12 *the date of commencement of the case.*

13 *“(2) Notwithstanding the failure of the seller to*
14 *provide notice in a manner consistent with this sub-*
15 *section, the seller shall be entitled to assert the rights*
16 *established in section 503(b)(7) of this title.”.*

17 *(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of*
18 *title 11, United States Code, is amended—*

19 *(1) in paragraph (5), by striking “and” at the*
20 *end;*

21 *(2) in paragraph (6), by striking the period at*
22 *the end and inserting “; and”; and*

23 *(3) by adding at the end the following:*

24 *“(7) the invoice price of any goods received by*
25 *the debtor within 20 days of the date of filing of a*

1 *case under this title where the goods have been sold*
2 *to the debtor in the ordinary course of such seller's*
3 *business.”.*

4 **SEC. 1436. PROVIDING REQUESTED TAX DOCUMENTS TO**
5 **THE COURT.**

6 *In the case of an individual under chapter 7, the court*
7 *shall not grant a discharge unless requested tax documents*
8 *have been provided to the court. In the case of an individual*
9 *under chapter 11 or 13, the court shall not confirm a plan*
10 *of reorganization unless requested tax documents have been*
11 *filed with the court.*

12 **SEC. 1437. DEFINITION OF FAMILY FARMER.**

13 *Section 101(18) of title 11, United States Code, is*
14 *amended—*

15 *(1) in subparagraph (A) by—*

16 *(A) striking “\$1,500,000” and inserting*
17 *“\$3,000,000”; and*

18 *(B) striking “80” and inserting “50”; and*

19 *(2) in subparagraph (B)(ii) by striking*
20 *“\$1,500,000” and inserting “\$3,000,000”.*

21 **SEC. 1438. ENCOURAGING CREDITWORTHINESS.**

22 *(a) SENSE OF THE CONGRESS.—It is the sense of the*
23 *Congress that—*

24 *(1) certain lenders may sometimes offer credit to*
25 *consumers indiscriminately, without taking steps to*

1 *ensure that consumers are capable of repaying the re-*
2 *sulting debt, and in a manner which may encourage*
3 *certain consumers to accumulate additional debt; and*

4 (2) *resulting consumer debt may increasingly be*
5 *a major contributing factor to consumer insolvency.*

6 (b) *STUDY REQUIRED.*—*The Board of Governors of the*
7 *Federal Reserve System (hereafter in this section referred*
8 *to as the “Board”) shall conduct a study of—*

9 (1) *consumer credit industry practices of solici-*
10 *ting and extending credit—*

11 (A) *indiscriminately;*

12 (B) *without taking steps to ensure that con-*
13 *sumers are capable of repaying the resulting*
14 *debt; and*

15 (C) *in a manner that encourages consumers*
16 *to accumulate additional debt; and*

17 (2) *the effects of such practices on consumer debt*
18 *and insolvency.*

19 (c) *REPORT AND REGULATIONS.*—*Not later than 12*
20 *months after the date of enactment of this Act, the Board—*

21 (1) *shall make public a report on its findings*
22 *with respect to the indiscriminate solicitation and ex-*
23 *tension of credit by the credit industry;*

24 (2) *may issue regulations that would require ad-*
25 *ditional disclosures to consumers; and*

1 **SEC. 1440. AVAILABILITY OF TOLL-FREE ACCESS TO INFOR-**
 2 **MATION.**

3 *Section 127(b)(11) of the Truth in Lending Act (15*
 4 *U.S.C. 1637(b)), as added by this Act, is amended by add-*
 5 *ing at the end the following:*

6 *“(K) A creditor that maintains a toll-free tele-*
 7 *phone number for the purpose of providing customers*
 8 *with the actual number of months that it will take to*
 9 *repay an outstanding balance shall include the fol-*
 10 *lowing statement on each billing statement: ‘Making*
 11 *only the minimum payment will increase the interest*
 12 *you pay and the time it takes to repay your balance.*
 13 *For more information, call this toll-free number:*
 14 *_____’.*”.

15 **TITLE XV—GENERAL EFFECTIVE**
 16 **DATE; APPLICATION OF**
 17 **AMENDMENTS**

18 **SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMEND-**
 19 **MENTS.**

20 *(a) EFFECTIVE DATE.—Except as provided otherwise*
 21 *in this Act, this Act and the amendments made by this Act*
 22 *shall take effect 180 days after the date of enactment of this*
 23 *Act.*

24 *(b) APPLICATION OF AMENDMENTS.—The amendments*
 25 *made by this Act shall not apply with respect to cases com-*

1 *menced under title 11, United States Code, before the effec-*
 2 *tive date of this Act.*

3 **TITLE XVI—FINANCIAL INSTITU-**
 4 **TIONS INSOLVENCY IMPROVE-**
 5 **MENT**

6 **SEC. 1601. SHORT TITLE.**

7 *This title may be cited as the “Financial Institutions*
 8 *Insolvency Improvement Act of 2000”.*

9 **SEC. 1602. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
 10 **SERVATORS OR RECEIVERS OF INSURED DE-**
 11 **POSITORY INSTITUTIONS.**

12 (a) **DEFINITION OF QUALIFIED FINANCIAL CON-**
 13 **TRACT.**—*Section 11(e)(8)(D)(i) of the Federal Deposit In-*
 14 *surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by in-*
 15 *serting “, resolution, or order” after “any similar agree-*
 16 *ment that the Corporation determines by regulation”.*

17 (b) **DEFINITION OF SECURITIES CONTRACT.**—*Section*
 18 *11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12*
 19 *U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:*

20 “(ii) **SECURITIES CONTRACT.**—*The*
 21 *term ‘securities contract’—*

22 *“(I) means a contract for the pur-*
 23 *chase, sale, or loan of a security, a cer-*
 24 *tificate of deposit, a mortgage loan, or*
 25 *any interest in a mortgage loan, a*

1 *group or index of securities, certificates*
2 *of deposit, or mortgage loans or inter-*
3 *ests therein (including any interest*
4 *therein or based on the value thereof)*
5 *or any option on any of the foregoing,*
6 *including any option to purchase or*
7 *sell any such security, certificate of de-*
8 *posit, loan, interest, group or index, or*
9 *option;*

10 *“(II) does not include any pur-*
11 *chase, sale, or repurchase obligation*
12 *under a participation in a commercial*
13 *mortgage loan unless the Corporation*
14 *determines by regulation, resolution, or*
15 *order to include any such agreement*
16 *within the meaning of such term;*

17 *“(III) means any option entered*
18 *into on a national securities exchange*
19 *relating to foreign currencies;*

20 *“(IV) means the guarantee by or*
21 *to any securities clearing agency of*
22 *any settlement of cash, securities, cer-*
23 *tificates of deposit, mortgage loans or*
24 *interests therein, group or index of se-*
25 *curities, certificates of deposit, or mort-*

1 *gage loans or interests therein (includ-*
2 *ing any interest therein or based on*
3 *the value thereof) or option on any of*
4 *the foregoing, including any option to*
5 *purchase or sell any such security, cer-*
6 *tificate of deposit, loan, interest, group*
7 *or index or option;*

8 *“(V) means any margin loan;*

9 *“(VI) means any other agreement*
10 *or transaction that is similar to any*
11 *agreement or transaction referred to in*
12 *this clause (other than subclause (II));*

13 *“(VII) means any combination of*
14 *the agreements or transactions referred*
15 *to in this clause (other than subclause*
16 *(II));*

17 *“(VIII) means any option to enter*
18 *into any agreement or transaction re-*
19 *ferred to in this clause (other than sub-*
20 *clause (II));*

21 *“(IX) means a master agreement*
22 *that provides for an agreement or*
23 *transaction referred to in subclause (I),*
24 *(III), (IV), (V), (VI), (VII), or (VIII),*
25 *together with all supplements to any*

1 *such master agreement, without regard*
2 *to whether the master agreement pro-*
3 *vides for an agreement or transaction*
4 *that is not a securities contract under*
5 *this clause, except that the master*
6 *agreement shall be considered to be a*
7 *securities contract under this clause*
8 *only with respect to each agreement or*
9 *transaction under the master agree-*
10 *ment that is referred to in subclause*
11 *(I), (III), (IV), (V), (VI), (VII), or*
12 *(VIII); and*

13 *“(X) means any security agree-*
14 *ment or arrangement or other credit*
15 *enhancement related to any agreement*
16 *or transaction referred to in this clause*
17 *(other than subclause (II)).”.*

18 *(c) DEFINITION OF COMMODITY CONTRACT.—Section*
19 *11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12*
20 *U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:*

21 *“(iii) COMMODITY CONTRACT.—The*
22 *term ‘commodity contract’ means—*

23 *“(I) with respect to a futures com-*
24 *mission merchant, a contract for the*
25 *purchase or sale of a commodity for fu-*

1 *ture delivery on, or subject to the rules*
2 *of, a contract market or board of trade;*

3 *“(II) with respect to a foreign fu-*
4 *tures commission merchant, a foreign*
5 *future;*

6 *“(III) with respect to a leverage*
7 *transaction merchant, a leverage trans-*
8 *action;*

9 *“(IV) with respect to a clearing*
10 *organization, a contract for the pur-*
11 *chase or sale of a commodity for future*
12 *delivery on, or subject to the rules of,*
13 *a contract market or board of trade*
14 *that is cleared by such clearing organi-*
15 *zation, or commodity option traded on,*
16 *or subject to the rules of, a contract*
17 *market or board of trade that is*
18 *cleared by such clearing organization;*

19 *“(V) with respect to a commodity*
20 *options dealer, a commodity option;*

21 *“(VI) any other agreement or*
22 *transaction that is similar to any*
23 *agreement or transaction referred to in*
24 *this clause;*

1 “(VII) any combination of the
2 agreements or transactions referred to
3 in this clause;

4 “(VIII) any option to enter into
5 any agreement or transaction referred
6 to in this clause;

7 “(IX) a master agreement that
8 provides for an agreement or trans-
9 action referred to in subclause (I), (II),
10 (III), (IV), (V), (VI), (VII), or (VIII),
11 together with all supplements to any
12 such master agreement, without regard
13 to whether the master agreement pro-
14 vides for an agreement or transaction
15 that is not a commodity contract
16 under this clause, except that the mas-
17 ter agreement shall be considered to be
18 a commodity contract under this clause
19 only with respect to each agreement or
20 transaction under the master agree-
21 ment that is referred to in subclause
22 (I), (II), (III), (IV), (V), (VI), (VII), or
23 (VIII); or

24 “(X) a security agreement or ar-
25 rangement or other credit enhancement

1 *related to any agreement or trans-*
2 *action referred to in this clause.”.*

3 (d) *DEFINITION OF FORWARD CONTRACT.*—Section
4 *11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12*
5 *U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:*

6 “(i) *FORWARD CONTRACT.*—The term
7 ‘*forward contract*’ means—

8 “(I) *a contract (other than a com-*
9 *modity contract) for the purchase, sale,*
10 *or transfer of a commodity or any*
11 *similar good, article, service, right, or*
12 *interest which is presently or in the fu-*
13 *ture becomes the subject of dealing in*
14 *the forward contract trade, or product*
15 *or byproduct thereof, with a maturity*
16 *date that is more than 2 days after the*
17 *date on which the contract is entered*
18 *into, including a repurchase agree-*
19 *ment, reverse repurchase agreement,*
20 *consignment, lease, swap, hedge trans-*
21 *action, deposit, loan, option, allocated*
22 *transaction, unallocated transaction,*
23 *or any other similar agreement;*

1 “(II) any combination of agree-
2 ments or transactions referred to in
3 subclauses (I) and (III);

4 “(III) any option to enter into
5 any agreement or transaction referred
6 to in subclause (I) or (II);

7 “(IV) a master agreement that
8 provides for an agreement or trans-
9 action referred to in subclauses (I),
10 (II), or (III), together with all supple-
11 ments to any such master agreement,
12 without regard to whether the master
13 agreement provides for an agreement
14 or transaction that is not a forward
15 contract under this clause, except that
16 the master agreement shall be consid-
17 ered to be a forward contract under
18 this clause only with respect to each
19 agreement or transaction under the
20 master agreement that is referred to in
21 subclause (I), (II), or (III); or

22 “(V) a security agreement or ar-
23 rangement or other credit enhancement
24 related to any agreement or trans-

1 *action referred to in subclause (I), (II),*
2 *(III), or (IV).”.*

3 *(e) DEFINITION OF REPURCHASE AGREEMENT AND*
4 *REVERSE REPURCHASE AGREEMENT.—Section*
5 *11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12*
6 *U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:*

7 *“(v) REPURCHASE AGREEMENT; RE-*
8 *VERSE REPURCHASE AGREEMENT.—The*
9 *terms ‘repurchase agreement’ and ‘reverse*
10 *repurchase agreement’—*

11 *“(I) mean an agreement, includ-*
12 *ing related terms, which provides for*
13 *the transfer of 1 or more certificates of*
14 *deposit, mortgage-related securities (as*
15 *such term is defined in the Securities*
16 *Exchange Act of 1934), mortgage loans,*
17 *interests in mortgage-related securities*
18 *or mortgage loans, eligible bankers’ ac-*
19 *ceptances, qualified foreign government*
20 *securities or securities that are direct*
21 *obligations of, or that are fully guaran-*
22 *teed by, the United States or any agen-*
23 *cy of the United States against the*
24 *transfer of funds by the transferee of*
25 *such certificates of deposit, eligible*

1 *bankers' acceptances, securities, loans,*
2 *or interests with a simultaneous agree-*
3 *ment by such transferee to transfer to*
4 *the transferor thereof certificates of de-*
5 *posit, eligible bankers' acceptances, se-*
6 *curities, loans, or interests as described*
7 *in this subclause, at a date certain*
8 *that is not later than 1 year after the*
9 *date of such transfers or on demand,*
10 *against the transfer of funds, or any*
11 *other similar agreement;*

12 “(II) does not include any repur-

13 *chase obligation under a participation*
14 *in a commercial mortgage loan unless*
15 *the Corporation determines by regula-*
16 *tion, resolution, or order to include*
17 *any such participation within the*
18 *meaning of such term;*

19 “(III) means any combination of

20 *agreements or transactions referred to*
21 *in subclauses (I) and (IV);*

22 “(IV) means any option to enter

23 *into any agreement or transaction re-*
24 *ferred to in subclause (I) or (III);*

1 “(V) means a master agreement
2 that provides for an agreement or
3 transaction referred to in subclause (I),
4 (III), or (IV), together with all supple-
5 ments to any such master agreement,
6 without regard to whether the master
7 agreement provides for an agreement
8 or transaction that is not a repurchase
9 agreement under this clause, except
10 that the master agreement shall be con-
11 sidered to be a repurchase agreement
12 under this subclause only with respect
13 to each agreement or transaction under
14 the master agreement that is referred to
15 in subclause (I), (III), or (IV); and

16 “(VI) means a security agreement
17 or arrangement or other credit en-
18 hancement related to any agreement or
19 transaction referred to in subclause (I),
20 (III), (IV), or (V).

21 For purposes of this clause, the term ‘quali-
22 fied foreign government security’ means a
23 security that is a direct obligation of, or
24 that is fully guaranteed by, the central gov-
25 ernment of a member of the Organization

1 *for Economic Cooperation and Development*
2 *(as determined by regulation or order*
3 *adopted by the appropriate Federal banking*
4 *authority).”.*

5 (f) *DEFINITION OF SWAP AGREEMENT.—The Federal*
6 *Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is*
7 *amended to read as follows:*

8 “(vi) *SWAP AGREEMENT.—The term*
9 *‘swap agreement’—*

10 “(I) *means any agreement, in-*
11 *cluding the terms and conditions in-*
12 *corporated by reference in any such*
13 *agreement, that is—*

14 “(aa) *an interest rate swap,*
15 *option, future, or forward agree-*
16 *ment, including a rate floor, rate*
17 *cap, rate collar, cross-currency*
18 *rate swap, and basis swap;*

19 “(bb) *a spot, same day-to-*
20 *tomorrow, tomorrow-next, forward,*
21 *or other foreign exchange or pre-*
22 *cious metals agreement;*

23 “(cc) *a currency swap, op-*
24 *tion, future, or forward agree-*
25 *ment;*

1 “(dd) an equity index or eq-
2 uity swap, option, future, or for-
3 ward agreement;

4 “(ee) a debt index or debt
5 swap, option, future, or forward
6 agreement;

7 “(ff) a credit spread or credit
8 swap, option, future, or forward
9 agreement; or

10 “(gg) a commodity index or
11 commodity swap, option, future,
12 or forward agreement;

13 “(II) means any agreement or
14 transaction that is similar to any
15 other agreement or transaction referred
16 to in this clause, that is presently, or
17 in the future becomes, regularly entered
18 into in the swap market (including
19 terms and conditions incorporated by
20 reference in such agreement), and that
21 is a forward, swap, future, or option
22 on 1 or more rates, currencies, com-
23 modities, equity securities or other eq-
24 uity instruments, debt securities or
25 other debt instruments, or economic in-

1 *dices or measures of economic risk or*
2 *value;*

3 “(III) means any combination of
4 *agreements or transactions referred to*
5 *in this clause;*

6 “(IV) means any option to enter
7 *into any agreement or transaction re-*
8 *ferred to in this clause;*

9 “(V) means a master agreement
10 *that provides for an agreement or*
11 *transaction referred to in subclause (I),*
12 *(II), (III), or (IV), together with all*
13 *supplements to any such master agree-*
14 *ment, without regard to whether the*
15 *master agreement contains an agree-*
16 *ment or transaction that is not a swap*
17 *agreement under this clause, except*
18 *that the master agreement shall be con-*
19 *sidered to be a swap agreement under*
20 *this clause only with respect to each*
21 *agreement or transaction under the*
22 *master agreement that is referred to in*
23 *subclause (I), (II), (III), or (IV);*

24 “(VI) means any security agree-
25 *ment or arrangement or other credit*

1 *enhancement related to any agreements*
2 *or transactions referred to in subpara-*
3 *graph (I), (II), (III), or (IV); and*

4 *“(VII) is applicable for purposes*
5 *of this Act only, and shall not be con-*
6 *strued or applied so as to challenge or*
7 *affect the characterization, definition,*
8 *or treatment of any swap agreement*
9 *under any other statute, regulation, or*
10 *rule, including the Securities Act of*
11 *1933, the Securities Exchange Act of*
12 *1934, the Public Utility Holding Com-*
13 *pany Act of 1935, the Trust Indenture*
14 *Act of 1939, the Investment Company*
15 *Act of 1940, the Investment Advisers*
16 *Act of 1940, the Securities Investor*
17 *Protection Act of 1970, the Commodity*
18 *Exchange Act, and the regulations pro-*
19 *mulgated by the Securities and Ex-*
20 *change Commission or the Commodity*
21 *Futures Trading Commission.”.*

22 *(g) DEFINITION OF TRANSFER.—Section*
23 *11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12*
24 *U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:*

1 “(viii) *TRANSFER*.—The term ‘trans-
2 *fer*’ means every mode, direct or indirect,
3 *absolute or conditional, voluntary or invol-*
4 *untary, of disposing of or parting with*
5 *property or with an interest in property,*
6 *including retention of title as a security in-*
7 *terest and foreclosure of the depository*
8 *institutions’s equity of redemption.”.*

9 (h) *TREATMENT OF QUALIFIED FINANCIAL CON-*
10 *TRACTS*.—Section 11(e)(8) of the Federal Deposit Insurance
11 *Act (12 U.S.C. 1821(e)(8)) is amended—*

12 (1) *in subparagraph (A), by striking “paragraph*
13 *(10)” and inserting “paragraphs (9) and (10)”;*

14 (2) *in subparagraph (A)(i), by striking “to cause*
15 *the termination or liquidation” and inserting “such*
16 *person has to cause the termination, liquidation, or*
17 *acceleration”;*

18 (3) *by striking clause (ii) of subparagraph (A)*
19 *and inserting the following:*

20 “(ii) *any right under any security*
21 *agreement or arrangement or other credit*
22 *enhancement related to 1 or more qualified*
23 *financial contracts described in clause (i);*
24 *or”; and*

1 (4) *by striking clause (ii) of subparagraph (E)*
 2 *and inserting the following:*

3 “(ii) *any right under any security*
 4 *agreement or arrangement or other credit*
 5 *enhancement related to 1 or more qualified*
 6 *financial contracts described in clause (i);*
 7 *or”.*

8 (i) *AVOIDANCE OF TRANSFERS.—Section*
 9 *11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12*
 10 *U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section*
 11 *5242 of the Revised Statutes (12 U.S.C. 91), or any other*
 12 *Federal or State law relating to the avoidance of pref-*
 13 *erential or fraudulent transfers,” before “the Corporation”.*

14 **SEC. 1603. AUTHORITY OF THE CORPORATION WITH RE-**
 15 **SPECT TO FAILED AND FAILING INSTITU-**
 16 **TIONS.**

17 (a) *IN GENERAL.—Section 11(e)(8) of the Federal De-*
 18 *posit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—*

19 (1) *in subparagraph (E), by striking “other than*
 20 *paragraph (12) of this subsection, subsection (d)(9)”*
 21 *and inserting “other than subsections (d)(9) and*
 22 *(e)(10)”;* *and*

23 (2) *by adding at the end the following:*

24 “(F) *CLARIFICATION.—No provision of law*
 25 *shall be construed as limiting the right or power*

1 *of the Corporation, or authorizing any court or*
2 *agency to limit or delay, in any manner, the*
3 *right or power of the Corporation to transfer any*
4 *qualified financial contract in accordance with*
5 *paragraphs (9) and (10) or to disaffirm or repu-*
6 *diate any such contract in accordance with sub-*
7 *section (e)(1).*

8 “(G) *WALKAWAY CLAUSES NOT EFFEC-*
9 *TIVE.—*

10 “(i) *IN GENERAL.—Notwithstanding*
11 *the provisions of subparagraphs (A) and*
12 *(E), and sections 403 and 404 of the Fed-*
13 *eral Deposit Insurance Corporation Im-*
14 *provement Act of 1991, no walkaway clause*
15 *shall be enforceable in a qualified financial*
16 *contract of an insured depository institu-*
17 *tion in default.*

18 “(ii) *WALKAWAY CLAUSE DEFINED.—*
19 *For purposes of this subparagraph, the term*
20 *‘walkaway clause’ means a provision in a*
21 *qualified financial contract that, after cal-*
22 *culatation of a value of a party’s position or*
23 *an amount due to or from 1 of the parties*
24 *in accordance with its terms upon termi-*
25 *nation, liquidation, or acceleration of the*

1 *qualified financial contract, either does not*
 2 *create a payment obligation of a party or*
 3 *extinguishes a payment obligation of a*
 4 *party in whole or in part solely because of*
 5 *such party’s status as a nondefaulting*
 6 *party.”.*

7 ***(b) TECHNICAL AND CONFORMING AMENDMENT.***—*Sec-*
 8 *tion 11(e)(12)(A) of the Federal Deposit Insurance Act (12*
 9 *U.S.C. 1821(e)(12)(A)) is amended by inserting “or the ex-*
 10 *ercise of rights or powers by” after “the appointment of”.*

11 **SEC. 1604. AMENDMENTS RELATING TO TRANSFERS OF**
 12 **QUALIFIED FINANCIAL CONTRACTS.**

13 ***(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS***
 14 ***TO FINANCIAL INSTITUTIONS.***—*Section 11(e)(9) of the Fed-*
 15 *eral Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is*
 16 *amended to read as follows:*

17 ***“(9) TRANSFER OF QUALIFIED FINANCIAL CON-***
 18 ***TRACTS.***—

19 ***“(A) IN GENERAL.***—*In making any transfer*
 20 *of assets or liabilities of a depository institution*
 21 *in default which includes any qualified financial*
 22 *contract, the conservator or receiver for such de-*
 23 *pository institution shall either—*

24 ***“(i) transfer to 1 financial institution,***
 25 ***other than a financial institution for which***

1 *a conservator, receiver, trustee in bank-*
2 *ruptcy, or other legal custodian has been*
3 *appointed or which is otherwise the subject*
4 *of a bankruptcy or insolvency proceeding—*

5 *“(I) all qualified financial con-*
6 *tracts between any person or any affil-*
7 *iate of such person and the depository*
8 *institution in default;*

9 *“(II) all claims of such person or*
10 *any affiliate of such person against*
11 *such depository institution under any*
12 *such contract (other than any claim*
13 *which, under the terms of any such*
14 *contract, is subordinated to the claims*
15 *of general unsecured creditors of such*
16 *institution);*

17 *“(III) all claims of such deposi-*
18 *tory institution against such person or*
19 *any affiliate of such person under any*
20 *such contract; and*

21 *“(IV) all property securing or any*
22 *other credit enhancement for any con-*
23 *tract described in subclause (I) or any*
24 *claim described in subclause (II) or*
25 *(III) under any such contract; or*

1 “(i) transfer none of the qualified fi-
2 nancial contracts, claims, property, or other
3 credit enhancement referred to in clause (i)
4 (with respect to such person and any affil-
5 iate of such person).

6 “(B) TRANSFER TO FOREIGN BANK, FOR-
7 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
8 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
9 STITUTION.—In transferring any qualified fi-
10 nancial contract and related claims and prop-
11 erty pursuant to subparagraph (A)(i), the con-
12 servator or receiver for the depository institution
13 shall not make such transfer to a foreign bank,
14 financial institution organized under the laws of
15 a foreign country, or a branch or agency of a
16 foreign bank or financial institution unless,
17 under the law applicable to such bank, financial
18 institution, branch, or agency, to the qualified fi-
19 nancial contract, and to any netting contract,
20 any security agreement or arrangement or other
21 credit enhancement related to 1 or more qualified
22 financial contracts the contractual rights of the
23 parties to such qualified financial contracts, net-
24 ting contracts, security agreements, or arrange-
25 ments, or other credit enhancements are enforce-

1 *able substantially to the same extent as per-*
2 *mitted under this section.*

3 “(C) *TRANSFER OF CONTRACT SUBJECT TO*
4 *THE RULES OF A CLEARING ORGANIZATION.—If*
5 *a conservator or receiver transfers any qualified*
6 *financial contract and related claims, property,*
7 *and credit enhancements pursuant to subpara-*
8 *graph (A)(i) and such contract is subject to the*
9 *rules of a clearing organization, the clearing or-*
10 *ganization shall not be required to accept the*
11 *transferee as a member by virtue of the transfer.*

12 “(D) *DEFINITION.—For purposes of this*
13 *paragraph, the term ‘financial institution’*
14 *means a broker or dealer, a depository institu-*
15 *tion, a futures commission merchant, or any*
16 *other institution that the Corporation deter-*
17 *mines, by regulation, to be a financial institu-*
18 *tion.”.*

19 (b) *NOTICE TO QUALIFIED FINANCIAL CONTRACT*
20 *COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal*
21 *Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is*
22 *amended by striking the flush material immediately fol-*
23 *lowing clause (ii) and inserting the following:*

24 *“the conservator or receiver shall notify any per-*
25 *son who is a party to any such contract of such*

1 *transfer by 5:00 p.m. (eastern time) on the busi-*
2 *ness day following the date of the appointment*
3 *of the receiver in the case of a receivership, or the*
4 *business day following such transfer in the case*
5 *of a conservatorship.”.*

6 *(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF*
7 *BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit*
8 *Insurance Act (12 U.S.C. 1821(e)(10)) is amended—*

9 *(1) by redesignating subparagraph (B) as sub-*
10 *paragraph (D); and*

11 *(2) by inserting after subparagraph (A) the fol-*
12 *lowing:*

13 *“(B) CERTAIN RIGHTS NOT ENFORCE-*
14 *ABLE.—*

15 *“(i) RECEIVERSHIP.—A person who is*
16 *a party to a qualified financial contract*
17 *with an insured depository institution may*
18 *not exercise any right such person has to*
19 *terminate, liquidate, or net such contract*
20 *under paragraph (8)(A) or section 403 or*
21 *404 of the Federal Deposit Insurance Cor-*
22 *poration Improvement Act of 1991, solely*
23 *by reason of or incidental to the appoint-*
24 *ment of a receiver for the depository institu-*
25 *tion (or the insolvency or financial condi-*

1 *tion of the depository institution for which*
2 *the receiver has been appointed)—*

3 *“(I) until 5:00 p.m. (eastern time)*
4 *on the business day following the date*
5 *of the appointment of the receiver; or*

6 *“(II) after the person has received*
7 *notice that the contract has been trans-*
8 *ferred pursuant to paragraph (9)(A).*

9 *“(ii) CONSERVATORSHIP.—A person*
10 *who is a party to a qualified financial con-*
11 *tract with an insured depository institution*
12 *may not exercise any right such person has*
13 *to terminate, liquidate, or net such contract*
14 *under paragraph (8)(E) or section 403 or*
15 *404 of the Federal Deposit Insurance Cor-*
16 *poration Improvement Act of 1991, solely*
17 *by reason of or incidental to the appoint-*
18 *ment of a conservator for the depository in-*
19 *stitution (or the insolvency or financial*
20 *condition of the depository institution for*
21 *which the conservator has been appointed).*

22 *“(iii) NOTICE.—For purposes of this*
23 *paragraph, the Corporation as receiver or*
24 *conservator of an insured depository insti-*
25 *tution shall be deemed to have notified a*

1 *person who is a party to a qualified finan-*
2 *cial contract with such depository institu-*
3 *tion if the Corporation has taken steps rea-*
4 *sonably calculated to provide notice to such*
5 *person by the time specified in subpara-*
6 *graph (A).*

7 “(C) *TREATMENT OF BRIDGE BANKS.—A fi-*
8 *nancial institution for which a conservator, re-*
9 *ceiver, trustee in bankruptcy, or other legal cus-*
10 *todian has been appointed or that is otherwise*
11 *the subject of a bankruptcy or insolvency pro-*
12 *ceeding for purposes of subsection (e)(9) does not*
13 *include—*

14 *“(i) a bridge bank; or*

15 *“(ii) a depository institution organized*
16 *by the Corporation, for which a conservator*
17 *is appointed either—*

18 *“(I) immediately upon the organi-*
19 *zation of the institution; or*

20 *“(II) at the time of a purchase*
21 *and assumption transaction between*
22 *such institution and the Corporation*
23 *as receiver for a depository institution*
24 *in default.”.*

1 **SEC. 1605. AMENDMENTS RELATING TO DISAFFIRMANCE OR**
2 **REPUDIATION OF QUALIFIED FINANCIAL**
3 **CONTRACTS.**

4 *Section 11(e) of the Federal Deposit Insurance Act (12*
5 *U.S.C. 1821(e)) is amended—*

6 *(1) by redesignating paragraphs (11) through*
7 *(15) as paragraphs (12) through (16), respectively;*

8 *(2) in paragraph (8)(C)(i), by striking “(11)”*
9 *and inserting “(12)”;*

10 *(3) in paragraph (8)(E), by striking “(12)” and*
11 *inserting “(13)”;* and

12 *(4) by inserting after paragraph (10) the fol-*
13 *lowing:*

14 *“(11) DISAFFIRMANCE OR REPUDIATION OF*
15 *QUALIFIED FINANCIAL CONTRACTS.—In exercising the*
16 *right to disaffirm or repudiate with respect to any*
17 *qualified financial contract to which an insured de-*
18 *pository institution is a party, the conservator or re-*
19 *ceiver for such institution shall either—*

20 *“(A) disaffirm or repudiate all qualified fi-*
21 *nancial contracts between—*

22 *“(i) any person or any affiliate of such*
23 *person; and*

24 *“(ii) the depository institution in de-*
25 *fault; or*

1 “(B) disaffirm or repudiate none of the
2 qualified financial contracts referred to in sub-
3 paragraph (A) (with respect to such person or
4 any affiliate of such person).”.

5 **SEC. 1606. CLARIFYING AMENDMENT RELATING TO MASTER**
6 **AGREEMENTS.**

7 Section 11(e)(8)(D)(vii) of the Federal Deposit Insur-
8 ance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read
9 as follows:

10 “(vii) *TREATMENT OF MASTER AGREE-*
11 *MENT AS 1 AGREEMENT.*—Any master
12 agreement for any contract or agreement de-
13 scribed in any preceding clause of this sub-
14 paragraph (or any master agreement for
15 such master agreement or agreements), to-
16 gether with all supplements to such master
17 agreement, shall be treated as a single
18 agreement and a single qualified financial
19 contract. If a master agreement contains
20 provisions relating to agreements or trans-
21 actions that are not themselves qualified fi-
22 nancial contracts, the master agreement
23 shall be deemed to be a qualified financial
24 contract only with respect to those trans-

1 actions that are themselves qualified finan-
2 cial contracts.”.

3 **SEC. 1607. FEDERAL DEPOSIT INSURANCE CORPORATION**
4 **IMPROVEMENT ACT OF 1991.**

5 (a) *DEFINITIONS.*—Section 402 of the Federal Deposit
6 Insurance Corporation Improvement Act of 1991 (12 U.S.C.
7 4402) is amended—

8 (1) in paragraph (6)—

9 (A) by redesignating subparagraphs (B)
10 through (D) as subparagraphs (C) through (E),
11 respectively;

12 (B) by inserting after subparagraph (A) the
13 following:

14 “(B) an uninsured national bank or an un-
15 insured State bank that is a member of the Fed-
16 eral Reserve System, if the national bank or
17 State member bank is not eligible to make appli-
18 cation to become an insured bank under section
19 5 of the Federal Deposit Insurance Act;” and

20 (C) by striking subparagraph (C) (as reded-
21 ignated) and inserting the following:

22 “(C) a branch or agency of a foreign bank,
23 a foreign bank and any branch or agency of the
24 foreign bank, or the foreign bank that established
25 the branch or agency, as those terms are defined

1 *in section 1(b) of the International Banking Act*
2 *of 1978;*”;

3 (2) *in paragraph (11), by inserting before the pe-*
4 *riod “and any other clearing organization with which*
5 *such clearing organization has a netting contract”;*

6 (3) *in paragraph (14)(A), by striking clause (i)*
7 *and inserting the following:*

8 “(i) *means a contract or agreement be-*
9 *tween 2 or more financial institutions,*
10 *clearing organizations, or members that*
11 *provides for netting present or future pay-*
12 *ment obligations or payment entitlements*
13 *(including liquidation or closeout values re-*
14 *lating to such obligations or entitlements)*
15 *among the parties to the agreement; and”;*
16 *and*

17 (4) *by adding at the end the following:*

18 “(15) *PAYMENT.—The term ‘payment’ means a*
19 *payment of United States dollars, another currency,*
20 *or a composite currency, and a noncash delivery, in-*
21 *cluding a payment or delivery to liquidate an*
22 *unmatured obligation.”.*

23 (b) *ENFORCEABILITY OF BILATERAL NETTING CON-*
24 *TRACTS.—Section 403 of the Federal Deposit Insurance*

1 *Corporation Improvement Act of 1991 (12 U.S.C. 4403) is*
2 *amended—*

3 *(1) by striking subsection (a) and inserting the*
4 *following:*

5 *“(a) GENERAL RULE.—Notwithstanding any other*
6 *provision of Federal or State law (other than paragraphs*
7 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal*
8 *Deposit Insurance Act or any order authorized under sec-*
9 *tion 5(b)(2) of the Securities Investor Protection Act of*
10 *1970, the covered contractual payment obligations and the*
11 *covered contractual payment entitlements between any 2 fi-*
12 *nancial institutions shall be netted in accordance with, and*
13 *subject to the conditions of, the terms of any applicable net-*
14 *ting contract (except as provided in section 561(b)(2) of*
15 *title 11, United States Code).”;* and

16 *(2) by adding at the end the following:*

17 *“(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—*
18 *The provisions of any security agreement or arrangement*
19 *or other credit enhancement related to 1 or more netting*
20 *contracts between any 2 financial institutions shall be en-*
21 *forceable in accordance with their terms (except as provided*
22 *in section 561(b)(2) of title 11, United States Code) and*
23 *shall not be stayed, avoided, or otherwise limited by any*
24 *State or Federal law (other than paragraphs (8)(E), (8)(F),*
25 *and (10)(B) of section 11(e) of the Federal Deposit Insur-*

1 *ance Act and section 5(b)(2) of the Securities Investor Pro-*
2 *tection Act of 1970).*”.

3 (c) *ENFORCEABILITY OF CLEARING ORGANIZATION*
4 *NETTING CONTRACTS.*—Section 404 of the Federal Deposit
5 Insurance Corporation Improvement Act of 1991 (12 U.S.C.
6 4404) is amended—

7 (1) *by striking subsection (a) and inserting the*
8 *following:*

9 “(a) *GENERAL RULE.*—Notwithstanding any other
10 provision of Federal or State law (other than paragraphs
11 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
12 Deposit Insurance Act or any order authorized under sec-
13 tion 5(b)(2) of the Securities Investor Protection Act of
14 1970) the covered contractual payment obligations and the
15 covered contractual payment entitlements of a member of
16 a clearing organization to and from all other members of
17 the clearing organization shall be netted in accordance with,
18 and subject to the conditions of, the terms of any applicable
19 netting contract (except as provided in section 561(b)(2) of
20 title 11, United States Code).”; and

21 (2) *by adding at the end the following:*

22 “(h) *ENFORCEABILITY OF SECURITY AGREEMENTS.*—
23 The provisions of any security agreement or arrangement
24 or other credit enhancement related to 1 or more netting
25 contracts between any 2 members of a clearing organization

1 *shall be enforceable in accordance with their terms (except*
2 *as provided in section 561(b)(2) of title 11, United States*
3 *Code) and shall not be stayed, avoided, or otherwise limited*
4 *by any State or Federal law (other than paragraphs (8)(E),*
5 *(8)(F), and (10)(B) of section 11(e) of the Federal Deposit*
6 *Insurance Act and section 5(b)(2) of the Securities Investor*
7 *Protection Act of 1970).”.*

8 (d) *ENFORCEABILITY OF CONTRACTS WITH UNIN-*
9 *SURED NATIONAL BANKS AND UNINSURED FEDERAL*
10 *BRANCHES AND AGENCIES.—The Federal Deposit Insur-*
11 *ance Corporation Improvement Act of 1991 (12 U.S.C. 4401*
12 *et seq.) is amended by adding at the end the following:*

13 **“SEC. 408. TREATMENT OF CONTRACTS WITH UNINSURED**
14 **NATIONAL BANKS AND UNINSURED FEDERAL**
15 **BRANCHES AND AGENCIES.**

16 “(a) *IN GENERAL.—Notwithstanding any other provi-*
17 *sion of law, paragraphs (8), (9), (10), and (11) of section*
18 *11(e) of the Federal Deposit Insurance Act shall apply to*
19 *an uninsured national bank or uninsured Federal branch*
20 *or Federal agency, except that for such purpose—*

21 “(1) *any reference to the ‘Corporation as re-*
22 *ceiver’ or ‘the receiver or the Corporation’ shall refer*
23 *to the receiver of an uninsured national bank or un-*
24 *insured Federal branch or Federal agency appointed*
25 *by the Comptroller of the Currency;*

1 “(2) any reference to the ‘Corporation’ (other
2 than in section 11(e)(8)(D) of that Act), the ‘Corpora-
3 tion, whether acting as such or as conservator or re-
4 ceiver’, a ‘receiver’, or a ‘conservator’ shall refer to the
5 receiver or conservator of an uninsured national bank
6 or uninsured Federal branch or Federal agency ap-
7 pointed by the Comptroller of the Currency; and

8 “(3) any reference to an ‘insured depository in-
9 stitution’ or ‘depository institution’ shall refer to an
10 uninsured national bank or an uninsured Federal
11 branch or Federal agency.

12 “(b) *LIABILITY.*—The liability of a receiver or conser-
13 vator of an uninsured national bank or uninsured Federal
14 branch or agency shall be determined in the same manner
15 and subject to the same limitations that apply to receivers
16 and conservators of insured depository institutions under
17 section 11(e) of the Federal Deposit Insurance Act.

18 “(c) *REGULATORY AUTHORITY.*—

19 “(1) *IN GENERAL.*—The Comptroller of the Cur-
20 rency, in consultation with the Federal Deposit In-
21 surance Corporation, may promulgate regulations to
22 implement this section.

23 “(2) *SPECIFIC REQUIREMENT.*—In promulgating
24 regulations to implement this section, the Comptroller
25 of the Currency shall ensure that the regulations gen-

1 *erally are consistent with the regulations and policies*
2 *of the Federal Deposit Insurance Corporation adopted*
3 *pursuant to the Federal Deposit Insurance Act.*

4 *“(d) DEFINITIONS.—For purposes of this section, the*
5 *terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’*
6 *have the same meanings as in section 1(b) of the Inter-*
7 *national Banking Act of 1978.”.*

8 **SEC. 1608. RECORDKEEPING REQUIREMENTS.**

9 *Section 11(e)(8) of the Federal Deposit Insurance Act*
10 *(12 U.S.C. 1821(e)(8)) is amended by adding at the end*
11 *the following:*

12 *“(H) RECORDKEEPING REQUIREMENTS.—*
13 *The Corporation, in consultation with the appro-*
14 *priate Federal banking agencies, may prescribe*
15 *regulations requiring more detailed record-*
16 *keeping with respect to qualified financial con-*
17 *tracts (including market valuations) by insured*
18 *depository institutions.”.*

19 **SEC. 1609. EXEMPTIONS FROM CONTEMPORANEOUS EXECU-**
20 **TION REQUIREMENT.**

21 *Section 13(e)(2) of the Federal Deposit Insurance Act*
22 *(12 U.S.C. 1823(e)(2)) is amended to read as follows:*

23 *“(2) EXEMPTIONS FROM CONTEMPORANEOUS*
24 *EXECUTION REQUIREMENT.—*

1 “(A) *IN GENERAL.*—An agreement described
2 in subparagraph (B) shall not be deemed to be
3 invalid pursuant to paragraph (1)(B) solely on
4 the basis—

5 “(i) that the agreement was not exe-
6 cuted contemporaneously with the acquisi-
7 tion of the collateral; or

8 “(ii) of any pledge, delivery, or substi-
9 tution of the collateral made in accordance
10 with the agreement.

11 “(B) *AGREEMENT DESCRIBED.*—An agree-
12 ment is described in this subparagraph if it is
13 an agreement to provide for the lawful
14 collateralization of—

15 “(i) deposits of, or other credit exten-
16 sion by, a Federal, State, or local govern-
17 mental entity, or of any depositor referred
18 to in section 11(a)(2), including an agree-
19 ment to provide collateral in lieu of a sur-
20 ety bond;

21 “(ii) securities deposited under section
22 345(b)(2) of title 11, United States Code;

23 “(iii) extensions of credit, including an
24 overdraft, from a Federal reserve bank or
25 Federal home loan bank; or

1 “(iv) 1 or more qualified financial con-
2 tracts (as defined in section 11(e)(8)(D)).”.

3 **SEC. 1610. SIPC STAY.**

4 Section 5(b)(2) of the Securities Investor Protection
5 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
6 at the end the following:

7 “(C) EXCEPTION FROM STAY.—

8 “(i) IN GENERAL.—Notwithstanding
9 section 362 of title 11, United States Code,
10 neither the filing of an application under
11 subsection (a)(3) of this section nor any
12 order or decree obtained by SIPC from the
13 court shall operate as a stay of any contrac-
14 tual right of a creditor to liquidate, termi-
15 nate, or accelerate a securities contract,
16 commodity contract, forward contract, re-
17 purchase agreement, swap agreement, or
18 master netting agreement, each as defined
19 in title 11, United States Code, to offset or
20 net termination values, payment amounts,
21 or other transfer obligations arising under
22 or in connection with 1 or more of such
23 contracts or agreements, or to foreclose on
24 any cash collateral pledged by the debtor,

1 *whether or not with respect to 1 or more of*
2 *such contracts or agreements.*

3 “(ii) *STAYS ON FORECLOSURE.*—Not-
4 *withstanding clause (i), an application,*
5 *order, or decree described therein may oper-*
6 *ate as a stay of the foreclosure on securities*
7 *collateral pledged by the debtor, whether or*
8 *not with respect to 1 or more of such con-*
9 *tracts or agreements, securities sold by the*
10 *debtor under a repurchase agreement or se-*
11 *curities lent under a securities lending*
12 *agreement.*

13 “(iii) *DEFINITION.*—As used in this
14 *section, the term ‘contractual right’*
15 *includes—*

16 “(I) *a right set forth in a rule or*
17 *bylaw of a national securities ex-*
18 *change, a national securities associa-*
19 *tion, or a securities clearing agency;*

20 “(II) *a right set forth in a bylaw*
21 *of a clearing organization or contract*
22 *market or in a resolution of the gov-*
23 *erning board thereof; and*

24 “(III) *a right, whether or not in*
25 *writing, arising under common law,*

1 *under law merchant, or by reason of*
2 *normal business practice.”.*

3 **SEC. 1611. FEDERAL RESERVE COLLATERAL REQUIRE-**
4 **MENTS.**

5 *Section 16 of the Federal Reserve Act (12 U.S.C. 412)*
6 *is amended in the third sentence of the second undesignated*
7 *paragraph, by striking “acceptances acquired under section*
8 *13 of this Act” and inserting “acceptances acquired under*
9 *section 10A, 10B, 13, or 13A”.*

10 **SEC. 1612. EFFECTIVE DATE; APPLICATION OF AMEND-**
11 **MENTS.**

12 (a) *SEVERABILITY.*—*If any provision of this title or*
13 *any amendment made by this title, or the application of*
14 *any such provision or amendment to any person or cir-*
15 *cumstance, is held to be unconstitutional, the remaining*
16 *provisions of and amendments made by this title and the*
17 *application of such other provisions and amendments to*
18 *any person or circumstance shall not be affected thereby.*

19 (b) *EFFECTIVE DATE.*—*This title and the amendments*
20 *made by this title shall take effect on the date of enactment*
21 *of this Act.*

22 (c) *APPLICATION OF AMENDMENTS.*—*The amendments*
23 *made by this title shall apply with respect to cases com-*
24 *menced or appointments made under any Federal or State*
25 *law after the date of enactment of this Act, but shall not*

1 *apply with respect to cases commenced or appointments*
 2 *made under any Federal or State law before the date of*
 3 *enactment of this Act.*

4 **TITLE XVII—METHAMPHET-**
 5 **AMINE AND OTHER CON-**
 6 **TROLLED SUBSTANCES**

7 **SEC. 1701. SHORT TITLE.**

8 *This title may be cited as the “Methamphetamine*
 9 *Anti-Proliferation Act of 2000”.*

10 **Subtitle A—Methamphetamine**
 11 **Production, Trafficking, and Abuse**

12 **CHAPTER 1—CRIMINAL PENALTIES**

13 **SEC. 1711. ENHANCED PUNISHMENT OF AMPHETAMINE**
 14 **LABORATORY OPERATORS.**

15 *(a) AMENDMENT TO FEDERAL SENTENCING GUIDE-*
 16 *LINES.—Pursuant to its authority under section 994(p) of*
 17 *title 28, United States Code, the United States Sentencing*
 18 *Commission shall amend the Federal sentencing guidelines*
 19 *in accordance with this section with respect to any offense*
 20 *relating to the manufacture, importation, exportation, or*
 21 *trafficking in amphetamine (including an attempt or con-*
 22 *spiracy to do any of the foregoing) in violation of—*

23 *(1) the Controlled Substances Act (21 U.S.C. 801*
 24 *et seq.);*

1 (2) *the Controlled Substances Import and Export*
2 *Act (21 U.S.C. 951 et seq.); or*

3 (3) *the Maritime Drug Law Enforcement Act (46*
4 *U.S.C. App. 1901 et seq.).*

5 (b) *GENERAL REQUIREMENT.*—*In carrying out this*
6 *section, the United States Sentencing Commission shall,*
7 *with respect to each offense described in subsection (a) relat-*
8 *ing to amphetamine—*

9 (1) *review and amend its guidelines to provide*
10 *for increased penalties such that those penalties are*
11 *comparable to the base offense level for methamphet-*
12 *amine; and*

13 (2) *take any other action the Commission con-*
14 *siders necessary to carry out this subsection.*

15 (c) *ADDITIONAL REQUIREMENTS.*—*In carrying out*
16 *this section, the United States Sentencing Commission shall*
17 *ensure that the sentencing guidelines for offenders convicted*
18 *of offenses described in subsection (a) reflect the heinous na-*
19 *ture of such offenses, the need for aggressive law enforcement*
20 *action to fight such offenses, and the extreme dangers associ-*
21 *ated with unlawful activity involving amphetamines,*
22 *including—*

23 (1) *the rapidly growing incidence of amphet-*
24 *amine abuse and the threat to public safety that such*
25 *abuse poses;*

1 (2) *the high risk of amphetamine addiction;*

2 (3) *the increased risk of violence associated with*
3 *amphetamine trafficking and abuse; and*

4 (4) *the recent increase in the illegal importation*
5 *of amphetamine and precursor chemicals.*

6 (d) *EMERGENCY AUTHORITY TO SENTENCING COMMIS-*
7 *SION.—The United States Sentencing Commission shall*
8 *promulgate amendments pursuant to this section as soon*
9 *as practicable after the date of the enactment of this Act*
10 *in accordance with the procedure set forth in section 21(a)*
11 *of the Sentencing Act of 1987 (Public Law 100–182), as*
12 *though the authority under that Act had not expired.*

13 **SEC. 1712. ENHANCED PUNISHMENT OF AMPHETAMINE OR**
14 **METHAMPHETAMINE LABORATORY OPERA-**
15 **TORS.**

16 (a) *FEDERAL SENTENCING GUIDELINES.—*

17 (1) *IN GENERAL.—Pursuant to its authority*
18 *under section 994(p) of title 28, United States Code,*
19 *the United States Sentencing Commission shall*
20 *amend the Federal sentencing guidelines in accord-*
21 *ance with paragraph (2) with respect to any offense*
22 *relating to the manufacture, attempt to manufacture,*
23 *or conspiracy to manufacture amphetamine or meth-*
24 *amphetamine in violation of—*

1 (A) *the Controlled Substances Act (21*
2 *U.S.C. 801 et seq.);*

3 (B) *the Controlled Substances Import and*
4 *Export Act (21 U.S.C. 951 et seq.); or*

5 (C) *the Maritime Drug Law Enforcement*
6 *Act (46 U.S.C. App. 1901 et seq.).*

7 (2) *REQUIREMENTS.—In carrying out this para-*
8 *graph, the United States Sentencing Commission*
9 *shall—*

10 (A) *if the offense created a substantial risk*
11 *of harm to human life (other than a life de-*
12 *scribed in subparagraph (B)) or the environ-*
13 *ment, increase the base offense level for the*
14 *offense—*

15 (i) *by not less than 3 offense levels*
16 *above the applicable level in effect on the*
17 *date of the enactment of this Act; or*

18 (ii) *if the resulting base offense level*
19 *after an increase under clause (i) would be*
20 *less than level 27, to not less than level 27;*
21 *or*

22 (B) *if the offense created a substantial risk*
23 *of harm to the life of a minor or incompetent,*
24 *increase the base offense level for the offense—*

1 (i) by not less than 6 offense levels
2 above the applicable level in effect on the
3 date of the enactment of this Act; or

4 (ii) if the resulting base offense level
5 after an increase under clause (i) would be
6 less than level 30, to not less than level 30.

7 (3) *EMERGENCY AUTHORITY TO SENTENCING*
8 *COMMISSION.*—The United States Sentencing Com-
9 mission shall promulgate amendments pursuant to
10 this subsection as soon as practicable after the date of
11 enactment of this Act in accordance with the proce-
12 dure set forth in section 21(a) of the Sentencing Act
13 of 1987 (Public Law 100–182), as though the author-
14 ity under that Act had not expired.

15 (b) *EFFECTIVE DATE.*—The amendments made pursu-
16 ant to this section shall apply with respect to any offense
17 occurring on or after the date that is 60 days after the date
18 of enactment of this Act.

19 **SEC. 1713. MANDATORY RESTITUTION FOR VIOLATIONS OF**
20 **CONTROLLED SUBSTANCES ACT AND CON-**
21 **TROLLED SUBSTANCES IMPORT AND EXPORT**
22 **ACT RELATING TO AMPHETAMINE AND METH-**
23 **AMPHETAMINE.**

24 (a) *MANDATORY RESTITUTION.*—Section 413(q) of the
25 Controlled Substances Act (21 U.S.C. 853(q)) is amended—

1 (1) *in the matter preceding paragraph (1), by*
2 *striking “may” and inserting “shall”;*

3 (2) *by inserting “amphetamine or” before “meth-*
4 *amphetamine” each place it appears;*

5 (3) *in paragraph (2)—*

6 (A) *by inserting “, the State or local gov-*
7 *ernment concerned, or both the United States*
8 *and the State or local government concerned”*
9 *after “United States” the first place it appears;*
10 *and*

11 (B) *by inserting “or the State or local gov-*
12 *ernment concerned, as the case may be,” after*
13 *“United States” the second place it appears; and*

14 (4) *in paragraph (3), by striking “section 3663*
15 *of title 18, United States Code” and inserting “sec-*
16 *tion 3663A of title 18, United States Code”.*

17 (b) *DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUS-*
18 *TICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of*
19 *title 28, United States Code, is amended—*

20 (1) *by striking “and” at the end of subpara-*
21 *graph (B);*

22 (2) *by striking the period at the end of subpara-*
23 *graph (C) and inserting “; and”; and*

24 (3) *by adding at the end the following:*

25 “(D) *all amounts collected—*

1 “(i) by the United States pursuant to a re-
2 imbursement order under paragraph (2) of sec-
3 tion 413(q) of the Controlled Substances Act (21
4 U.S.C. 853(q)); and

5 “(ii) pursuant to a restitution order under
6 paragraph (1) or (3) of section 413(q) of the
7 Controlled Substances Act for injuries to the
8 United States.”.

9 (c) *CLARIFICATION OF CERTAIN ORDERS OF RESTITU-*
10 *TION.*—Section 3663(c)(2)(B) of title 18, United States
11 Code, is amended by inserting “which may be” after “the
12 fine”.

13 (d) *EXPANSION OF APPLICABILITY OF MANDATORY*
14 *RESTITUTION.*—Section 3663A(c)(1)(A)(ii) of title 18,
15 United States Code, is amended by inserting “or under sec-
16 tion 416(a) of the Controlled Substances Act (21 U.S.C.
17 856(a)),” after “under this title,”.

18 (e) *TREATMENT OF ILLICIT SUBSTANCE MANUFAC-*
19 *TURING OPERATIONS AS CRIMES AGAINST PROPERTY.*—
20 Section 416 of the Controlled Substances Act (21 U.S.C.
21 856) is amended by adding at the end the following new
22 subsection:

23 “(c) A violation of subsection (a) shall be considered
24 an offense against property for purposes of section
25 3663A(c)(1)(A)(ii) of title 18, United States Code.”.

1 **SEC. 1714. METHAMPHETAMINE PARAPHERNALIA.**

2 *Section 422(d) of the Controlled Substances Act (21*
3 *U.S.C. 863(d)) is amended in the matter preceding para-*
4 *graph (1) by inserting “methamphetamine,” after “PCP,”.*

5 **CHAPTER 2—ENHANCED LAW**

6 **ENFORCEMENT**

7 **SEC. 1721. ENVIRONMENTAL HAZARDS ASSOCIATED WITH**
8 **ILLEGAL MANUFACTURE OF AMPHETAMINE**
9 **AND METHAMPHETAMINE.**

10 *(a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE*
11 *ASSETS FORFEITURE FUND.—Section 524(c)(1)(E) of title*
12 *28, United States Code, is amended—*

13 *(1) by inserting “(i) for” before “disbursements”;*
14 *(2) by inserting “and” after the semicolon; and*
15 *(3) by adding at the end the following:*

16 *“(i) for payment for—*

17 *“(I) costs incurred by or on behalf of the*
18 *Department of Justice in connection with the re-*
19 *moval, for purposes of Federal forfeiture and dis-*
20 *position, of any hazardous substance or pollutant*
21 *or contaminant associated with the illegal manu-*
22 *facture of amphetamine or methamphetamine;*
23 *and*

24 *“(II) costs incurred by or on behalf of a*
25 *State or local government in connection with*
26 *such removal in any case in which such State or*

1 *local government has assisted in a Federal pros-*
2 *ecution relating to amphetamine or methamphet-*
3 *amine, to the extent such costs exceed equitable*
4 *sharing payments made to such State or local*
5 *government in such case;”.*

6 **(b) GRANTS UNDER DRUG CONTROL AND SYSTEM IM-**
7 **PROVEMENT GRANT PROGRAM.**—*Section 501(b)(3) of the*
8 *Omnibus Crime Control and Safe Streets Act of 1968 is*
9 *amended by inserting before the semicolon the following:*
10 *“and to remove any hazardous substance or pollutant or*
11 *contaminant associated with the illegal manufacture of am-*
12 *phetamine or methamphetamine”.*

13 **(c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.**—

14 **(1) ASSETS FORFEITURE FUND.**—*Any amounts*
15 *made available from the Department of Justice Assets*
16 *Forfeiture Fund in a fiscal year by reason of the*
17 *amendment made by subsection (a) shall supplement,*
18 *and not supplant, any other amounts made available*
19 *to the Department of Justice in such fiscal year from*
20 *other sources for payment of costs described in section*
21 *524(c)(1)(E)(ii) of title 28, United States Code, as so*
22 *amended.*

23 **(2) GRANT PROGRAM.**—*Any amounts made*
24 *available in a fiscal year under the grant program*
25 *under section 501(b)(3) of the Omnibus Crime Con-*

1 *trol and Safe Streets Act of 1968 for the removal of*
2 *hazardous substances or pollutants or contaminants*
3 *associated with the illegal manufacture of amphet-*
4 *amine or methamphetamine by reason of the amend-*
5 *ment made by subsection (b) shall supplement, and*
6 *not supplant, any other amounts made available in*
7 *such fiscal year from other sources for such removal.*

8 **SEC. 1722. REDUCTION IN RETAIL SALES TRANSACTION**
9 **THRESHOLD FOR NON-SAFE HARBOR PROD-**
10 **UCTS CONTAINING PSEUDOEPHEDRINE OR**
11 **PHENLYPROPANOLAMINE.**

12 *(a) REDUCTION IN TRANSACTION THRESHOLD.—Sec-*
13 *tion 102(39)(A)(iv)(II) of the Controlled Substances Act (21*
14 *U.S.C. 802(39)(A)(iv)(II) is amended—*

15 *(1) by striking “24 grams” both places it ap-*
16 *pears and inserting “9 grams”; and*

17 *(2) by inserting before the semicolon at the end*
18 *the following: “and sold in package sizes of not more*
19 *than 3 grams of pseudoephedrine base or 3 grams of*
20 *phenylpropanolamine base”.*

21 *(b) EFFECTIVE DATE.—The amendments made by sub-*
22 *section (a) shall take effect one year after the date of the*
23 *enactment of this Act.*

1 **SEC. 1723. TRAINING FOR DRUG ENFORCEMENT ADMINIS-**
2 **TRATION AND STATE AND LOCAL LAW EN-**
3 **FORCEMENT PERSONNEL RELATING TO**
4 **CLANDESTINE LABORATORIES.**

5 (a) *IN GENERAL.*—

6 (1) *REQUIREMENT.*—*The Administrator of the*
7 *Drug Enforcement Administration shall carry out the*
8 *programs described in subsection (b) with respect to*
9 *the law enforcement personnel of States and localities*
10 *determined by the Administrator to have significant*
11 *levels of methamphetamine-related or amphetamine-*
12 *related crime or projected by the Administrator to*
13 *have the potential for such levels of crime in the fu-*
14 *ture.*

15 (2) *DURATION.*—*The duration of any program*
16 *under that subsection may not exceed 3 years.*

17 (b) *COVERED PROGRAMS.*—*The programs described in*
18 *this subsection are as follows:*

19 (1) *ADVANCED MOBILE CLANDESTINE LABORA-*
20 *TORY TRAINING TEAMS.*—*A program of advanced mo-*
21 *bile clandestine laboratory training teams, which*
22 *shall provide information and training to State and*
23 *local law enforcement personnel in techniques utilized*
24 *in conducting undercover investigations and con-*
25 *spiracy cases, and other information designed to as-*
26 *sist in the investigation of the illegal manufacturing*

1 *and trafficking of amphetamine and methamphet-*
2 *amine.*

3 (2) *BASIC CLANDESTINE LABORATORY CERTIFI-*
4 *CATION TRAINING.—A program of basic clandestine*
5 *laboratory certification training, which shall provide*
6 *information and training—*

7 (A) *to Drug Enforcement Administration*
8 *personnel and State and local law enforcement*
9 *personnel for purposes of enabling such personnel*
10 *to meet any certification requirements under law*
11 *with respect to the handling of wastes created by*
12 *illegal amphetamine and methamphetamine lab-*
13 *oratories; and*

14 (B) *to State and local law enforcement per-*
15 *sonnel for purposes of enabling such personnel to*
16 *provide the information and training covered by*
17 *subparagraph (A) to other State and local law*
18 *enforcement personnel.*

19 (3) *CLANDESTINE LABORATORY RECERTIFI-*
20 *CATION AND AWARENESS TRAINING.—A program of*
21 *clandestine laboratory recertification and awareness*
22 *training, which shall provide information and train-*
23 *ing to State and local law enforcement personnel for*
24 *purposes of enabling such personnel to provide recer-*
25 *tification and awareness training relating to clandes-*

1 *tine laboratories to additional State and local law en-*
2 *forcement personnel.*

3 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
4 *authorized to be appropriated for each of fiscal years 2000,*
5 *2001, and 2002 amounts as follows:*

6 (1) *\$1,500,000 to carry out the program de-*
7 *scribed in subsection (b)(1).*

8 (2) *\$3,000,000 to carry out the program de-*
9 *scribed in subsection (b)(2).*

10 (3) *\$1,000,000 to carry out the program de-*
11 *scribed in subsection (b)(3).*

12 **SEC. 1724. COMBATING METHAMPHETAMINE AND AMPHET-**
13 **AMINE IN HIGH INTENSITY DRUG TRAF-**
14 **FICKING AREAS.**

15 (a) *IN GENERAL.*—

16 (1) *IN GENERAL.*—*The Director of National*
17 *Drug Control Policy shall use amounts available*
18 *under this section to combat the trafficking of meth-*
19 *amphetamine and amphetamine in areas designated*
20 *by the Director as high intensity drug trafficking*
21 *areas.*

22 (2) *ACTIVITIES.*—*In meeting the requirement in*
23 *paragraph (1), the Director shall provide funds for—*

24 (A) *employing additional Federal law en-*
25 *forcement personnel, or facilitating the employ-*

1 *ment of additional State and local law enforce-*
2 *ment personnel, including agents, investigators,*
3 *prosecutors, laboratory technicians, chemists, in-*
4 *vestigative assistants, and drug-prevention spe-*
5 *cialists; and*

6 *(B) such other activities as the Director*
7 *considers appropriate.*

8 *(b) AUTHORIZATION OF APPROPRIATIONS.—There is*
9 *authorized to be appropriated to carry out this section—*

10 *(1) \$15,000,000 for fiscal year 2000; and*

11 *(2) such sums as may be necessary for each of*
12 *fiscal years 2001 through 2004.*

13 *(c) APPORTIONMENT OF FUNDS.—*

14 *(1) FACTORS IN APPORTIONMENT.—The Director*
15 *shall apportion amounts appropriated for a fiscal*
16 *year pursuant to the authorization of appropriations*
17 *in subsection (b) for activities under subsection (a)*
18 *among and within areas designated by the Director*
19 *as high intensity drug trafficking areas based on the*
20 *following factors:*

21 *(A) The number of methamphetamine man-*
22 *ufacturing facilities and amphetamine manufac-*
23 *turing facilities discovered by Federal, State, or*
24 *local law enforcement officials in the previous*
25 *fiscal year.*

1 (B) *The number of methamphetamine prosecutions and amphetamine prosecutions in Federal, State, or local courts in the previous fiscal year.*

2
3
4
5 (C) *The number of methamphetamine arrests and amphetamine arrests by Federal, State, or local law enforcement officials in the previous fiscal year.*

6
7
8
9 (D) *The amounts of methamphetamine, amphetamine, or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by Federal, State, or local law enforcement officials in the previous fiscal year.*

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15 (E) *Intelligence and predictive data from the Drug Enforcement Administration and the Department of Health and Human Services showing patterns and trends in abuse, trafficking, and transportation in methamphetamine, amphetamine, and listed chemicals (as that term is so defined).*

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17
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21
22 (2) *CERTIFICATION.—Before the Director appor-*
23 *tions any funds under this subsection to a high inten-*
24 *sity drug trafficking area, the Director shall certify*
25 *that the law enforcement entities responsible for clan-*

1 *destine methamphetamine and amphetamine labora-*
2 *tory seizures in that area are providing laboratory*
3 *seizure data to the national clandestine laboratory*
4 *database at the El Paso Intelligence Center.*

5 *(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not*
6 *more than 5 percent of the amount appropriated in a fiscal*
7 *year pursuant to the authorization of appropriations for*
8 *that fiscal year in subsection (b) may be available in that*
9 *fiscal year for administrative costs associated with activi-*
10 *ties under subsection (a).*

11 **SEC. 1725. COMBATING AMPHETAMINE AND METHAMPHET-**
12 **AMINE MANUFACTURING AND TRAFFICKING.**

13 *(a) ACTIVITIES.—In order to combat the illegal manu-*
14 *facturing and trafficking in amphetamine and meth-*
15 *amphetamine, the Administrator of the Drug Enforcement*
16 *Administration may—*

17 *(1) assist State and local law enforcement in*
18 *small and mid-sized communities in all phases of in-*
19 *vestigations related to such manufacturing and traf-*
20 *ficking, including assistance with foreign-language*
21 *interpretation;*

22 *(2) staff additional regional enforcement and*
23 *mobile enforcement teams related to such manufac-*
24 *turing and trafficking;*

1 (3) *establish additional resident offices and posts*
2 *of duty to assist State and local law enforcement in*
3 *rural areas in combating such manufacturing and*
4 *trafficking;*

5 (4) *provide the Special Operations Division of*
6 *the Administration with additional agents and staff*
7 *to collect, evaluate, interpret, and disseminate critical*
8 *intelligence targeting the command and control oper-*
9 *ations of major amphetamine and methamphetamine*
10 *manufacturing and trafficking organizations;*

11 (5) *enhance the investigative and related func-*
12 *tions of the Chemical Control Program of the Admin-*
13 *istration to implement more fully the provisions of*
14 *the Comprehensive Methamphetamine Control Act of*
15 *1996 (Public Law 104–237);*

16 (6) *design an effective means of requiring an ac-*
17 *curate accounting of the import and export of list I*
18 *chemicals, and coordinate investigations relating to*
19 *the diversion of such chemicals;*

20 (7) *develop a computer infrastructure sufficient*
21 *to receive, process, analyze, and redistribute time-sen-*
22 *sitive enforcement information from suspicious order*
23 *reporting to field offices of the Administration and*
24 *other law enforcement and regulatory agencies, in-*
25 *cluding the continuing development of the Suspicious*

1 *Order Reporting and Tracking System (SORTS) and*
2 *the Chemical Transaction Database (CTRANS) of the*
3 *Administration;*

4 (8) *establish an education, training, and com-*
5 *munication process in order to alert the industry to*
6 *current trends and emerging patterns in the illegal*
7 *manufacturing of amphetamine and methamphet-*
8 *amine; and*

9 (9) *carry out such other activities as the Admin-*
10 *istrator considers appropriate.*

11 (b) *ADDITIONAL POSITIONS AND PERSONNEL.—*

12 (1) *IN GENERAL.—In carrying out activities*
13 *under subsection (a), the Administrator may establish*
14 *in the Administration not more than 50 full-time po-*
15 *sitions, including not more than 31 special-agent po-*
16 *sitions, and may appoint personnel to such positions.*

17 (2) *PARTICULAR POSITIONS.—In carrying out*
18 *activities under paragraphs (5) through (8) of sub-*
19 *section (a), the Administrator may establish in the*
20 *Administration not more than 15 full-time positions,*
21 *including not more than 10 diversion investigator po-*
22 *sitions, and may appoint personnel to such positions.*
23 *Any positions established under this paragraph are in*
24 *addition to any positions established under para-*
25 *graph (1).*

1 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
2 *authorized to be appropriated for the Drug Enforcement*
3 *Administration for each fiscal year after fiscal year 1999,*
4 *\$9,500,000 for purposes of carrying out the activities au-*
5 *thorized by subsection (a) and employing personnel in posi-*
6 *tions established under subsection (b), of which \$3,000,000*
7 *shall be available for activities under paragraphs (5)*
8 *through (8) of subsection (a) and employing personnel in*
9 *positions established under subsection (b)(2).*

10 **CHAPTER 3—ABUSE PREVENTION AND**
11 **TREATMENT**

12 **SEC. 1731. EXPANSION OF METHAMPHETAMINE RESEARCH.**

13 *Section 464N of the Public Health Service Act (42*
14 *U.S.C. 2850–2) is amended by adding at the end the fol-*
15 *lowing:*

16 “(c) *METHAMPHETAMINE RESEARCH.*—

17 “(1) *GRANTS OR COOPERATIVE AGREEMENTS.*—

18 *The Director of the Institute may make grants or*
19 *enter into cooperative agreements to expand the cur-*
20 *rent and on-going interdisciplinary research and*
21 *clinical trials with treatment centers of the National*
22 *Drug Abuse Treatment Clinical Trials Network relat-*
23 *ing to methamphetamine abuse and addiction and*
24 *other biomedical, behavioral, and social issues related*
25 *to methamphetamine abuse and addiction.*

1 “(2) *USE OF FUNDS.*—Amounts made available
2 under a grant or cooperative agreement under para-
3 graph (1) for methamphetamine abuse and addiction
4 may be used for research and clinical trials relating
5 to—

6 “(A) *the effects of methamphetamine abuse*
7 *on the human body, including the brain;*

8 “(B) *the addictive nature of methamphet-*
9 *amine and how such effects differ with respect to*
10 *different individuals;*

11 “(C) *the connection between methamphet-*
12 *amine abuse and mental health;*

13 “(D) *the identification and evaluation of*
14 *the most effective methods of prevention of meth-*
15 *amphetamine abuse and addiction;*

16 “(E) *the identification and development of*
17 *the most effective methods of treatment of meth-*
18 *amphetamine addiction, including pharma-*
19 *cological treatments;*

20 “(F) *risk factors for methamphetamine*
21 *abuse;*

22 “(G) *effects of methamphetamine abuse and*
23 *addiction on pregnant women and their fetuses;*
24 *and*

1 “(H) *cultural, social, behavioral, neuro-*
2 *logical and psychological reasons that individ-*
3 *uals abuse methamphetamine, or refrain from*
4 *abusing methamphetamine.*

5 “(3) *RESEARCH RESULTS.—The Director shall*
6 *promptly disseminate research results under this sub-*
7 *section to Federal, State and local entities involved in*
8 *combating methamphetamine abuse and addiction.*

9 “(4) *AUTHORIZATION OF APPROPRIATIONS.—*

10 “(A) *AUTHORIZATION OF APPROPRIA-*
11 *TIONS.—There is authorized to be appropriated*
12 *to carry out paragraph (1), such sums as may*
13 *be necessary for each fiscal year.*

14 “(B) *SUPPLEMENT NOT SUPPLANT.—*
15 *Amounts appropriated pursuant to the author-*
16 *ization of appropriations in subparagraph (A)*
17 *for a fiscal year shall supplement and not sup-*
18 *plant any other amounts appropriated in such*
19 *fiscal year for research on methamphetamine*
20 *abuse and addiction.”.*

1 **SEC. 1732. METHAMPHETAMINE AND AMPHETAMINE TREAT-**
2 **MENT INITIATIVE BY CENTER FOR SUB-**
3 **STANCE ABUSE TREATMENT.**

4 *Subpart 1 of part B of title V of the Public Health*
5 *Service Act (42 U.S.C. 290bb et seq.) is amended by adding*
6 *at the end the following new section:*

7 *“METHAMPHETAMINE AND AMPHETAMINE TREATMENT*
8 *INITIATIVE*

9 *“SEC. 514. (a) GRANTS.—*

10 *“(1) AUTHORITY TO MAKE GRANTS.—The Direc-*
11 *tor of the Center for Substance Abuse Treatment may*
12 *make grants to States and Indian tribes recognized by*
13 *the United States that have a high rate, or have had*
14 *a rapid increase, in methamphetamine or amphet-*
15 *amine abuse or addiction in order to permit such*
16 *States and Indian tribes to expand activities in con-*
17 *nection with the treatment of methamphetamine or*
18 *amphetamine abuser or addiction in the specific geo-*
19 *graphical areas of such States or Indian tribes, as the*
20 *case may be, where there is such a rate or has been*
21 *such an increase.*

22 *“(2) RECIPIENTS.—Any grants under paragraph*
23 *(1) shall be directed to the substance abuse directors*
24 *of the States, and of the appropriate tribal govern-*
25 *ment authorities of the Indian tribes, selected by the*
26 *Director to receive such grants.*

1 “(3) *NATURE OF ACTIVITIES.*—*Any activities*
2 *under a grant under paragraph (1) shall be based on*
3 *reliable scientific evidence of their efficacy in the*
4 *treatment of methamphetamine or amphetamine*
5 *abuse or addiction.*

6 “(b) *GEOGRAPHIC DISTRIBUTION.*—*The Director shall*
7 *ensure that grants under subsection (a) are distributed eq-*
8 *uitably among the various regions of the country and*
9 *among rural, urban, and suburban areas that are affected*
10 *by methamphetamine or amphetamine abuse or addiction.*

11 “(c) *ADDITIONAL ACTIVITIES.*—*The Director shall—*

12 “(1) *evaluate the activities supported by grants*
13 *under subsection (a);*

14 “(2) *disseminate widely such significant infor-*
15 *mation derived from the evaluation as the Director*
16 *considers appropriate to assist States, Indian tribes,*
17 *and private providers of treatment services for meth-*
18 *amphetamine or amphetamine abuser or addiction in*
19 *the treatment of methamphetamine or amphetamine*
20 *abuse or addiction; and*

21 “(3) *provide States, Indian tribes, and such pro-*
22 *viders with technical assistance in connection with*
23 *the provision of such treatment.*

24 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—

1 “(1) *IN GENERAL.*—*There are authorized to be*
2 *appropriated to carry out this section \$10,000,000 for*
3 *fiscal year 2000 and such sums as may be necessary*
4 *for each of fiscal years 2001 and 2002.*

5 “(2) *USE OF CERTAIN FUNDS.*—*Of the funds ap-*
6 *propriated to carry out this section in any fiscal*
7 *year, the lesser of 5 percent of such funds or*
8 *\$1,000,000 shall be available to the Director for pur-*
9 *poses of carrying out subsection (c).”.*

10 **SEC. 1733. EXPANSION OF METHAMPHETAMINE ABUSE PRE-**
11 **VENTION EFFORTS.**

12 “(a) *EXPANSION OF EFFORTS.*—*Section 515 of the Pub-*
13 *lic Health Service Act (42 U.S.C. 290bb–21) is amended*
14 *by adding at the end the following:*

15 “(e)(1) *The Administrator may make grants to and*
16 *enter into contracts and cooperative agreements with public*
17 *and nonprofit private entities to enable such entities—*

18 “(A) *to carry out school-based programs con-*
19 *cerning the dangers of abuse of and addiction to*
20 *methamphetamine and other illicit drugs, using meth-*
21 *ods that are effective and science-based, including ini-*
22 *tiatives that give students the responsibility to create*
23 *their own anti-drug abuse education programs for*
24 *their schools; and*

1 “(B) to carry out community-based abuse and
2 addiction prevention programs relating to meth-
3 amphetamine and other illicit drugs that are effective
4 and science-based.

5 “(2) Amounts made available under a grant, contract
6 or cooperative agreement under paragraph (1) shall be used
7 for planning, establishing, or administering prevention pro-
8 grams relating to methamphetamine and other illicit drugs
9 in accordance with paragraph (3).

10 “(3)(A) Amounts provided under this subsection may
11 be used—

12 “(i) to carry out school-based programs that are
13 focused on those districts with high or increasing
14 rates of methamphetamine abuse and addiction and
15 targeted at populations which are most at risk to
16 start abuse of methamphetamine and other illicit
17 drugs;

18 “(ii) to carry out community-based prevention
19 programs that are focused on those populations with-
20 in the community that are most at-risk for abuse of
21 and addiction to methamphetamine and other illicit
22 drugs;

23 “(iii) to assist local government entities to con-
24 duct appropriate prevention activities relating to
25 methamphetamine and other illicit drugs;

1 “(iv) to train and educate State and local law
2 enforcement officials, prevention and education offi-
3 cials, members of community anti-drug coalitions and
4 parents on the signs of abuse of and addiction to
5 methamphetamine and other illicit drugs, and the op-
6 tions for treatment and prevention;

7 “(v) for planning, administration, and edu-
8 cational activities related to the prevention of abuse
9 of and addiction to methamphetamine and other il-
10 licit drugs;

11 “(vi) for the monitoring and evaluation of pre-
12 vention activities relating to methamphetamine and
13 other illicit drugs, and reporting and disseminating
14 resulting information to the public; and

15 “(vii) for targeted pilot programs with evalua-
16 tion components to encourage innovation and experi-
17 mentation with new methodologies.

18 “(B) The Administrator shall give priority in making
19 grants under this subsection to rural and urban areas that
20 are experiencing a high rate or rapid increases in meth-
21 amphetamine abuse and addiction.

22 “(4)(A) Not less than \$500,000 of the amount available
23 in each fiscal year to carry out this subsection shall be made
24 available to the Administrator, acting in consultation with
25 other Federal agencies, to support and conduct periodic

1 *analyses and evaluations of effective prevention programs*
2 *for abuse of and addiction to methamphetamine and other*
3 *illicit drugs and the development of appropriate strategies*
4 *for disseminating information about and implementing*
5 *these programs.*

6 “(B) *The Administrator shall submit to the committees*
7 *of Congress referred to in subparagraph (C) an annual re-*
8 *port with the results of the analyses and evaluation under*
9 *subparagraph (A).*

10 “(C) *The committees of Congress referred to in this*
11 *subparagraph are the following:*

12 “(i) *The Committees on Health, Education,*
13 *Labor, and Pensions, the Judiciary, and Appropria-*
14 *tions of the Senate.*

15 “(ii) *The Committees on Commerce, the Judici-*
16 *ary, and Appropriations of the House of Representa-*
17 *tives.”.*

18 (b) *AUTHORIZATION OF APPROPRIATIONS FOR EXPAN-*
19 *SION OF ABUSE PREVENTION EFFORTS AND PRACTITIONER*
20 *REGISTRATION REQUIREMENTS.—There is authorized to be*
21 *appropriated to carry out section 515(e) of the Public*
22 *Health Service Act (as added by subsection (a)) and section*
23 *303(g)(2) of the Controlled Substances Act (as added by sec-*
24 *tion 18(a) of this Act), \$15,000,000 for fiscal year 2000,*

1 *and such sums as may be necessary for each succeeding fis-*
2 *cal year.*

3 **SEC. 1734. STUDY OF METHAMPHETAMINE TREATMENT.**

4 (a) *STUDY.*—

5 (1) *REQUIREMENT.*—*The Secretary of Health*
6 *and Human Services shall, in consultation with the*
7 *Institute of Medicine of the National Academy of*
8 *Sciences, conduct a study on the development of medi-*
9 *cations for the treatment of addiction to amphetamine*
10 *and methamphetamine.*

11 (2) *REPORT.*—*Not later than nine months after*
12 *the date of the enactment of this Act, the Secretary*
13 *shall submit to the Committees on the Judiciary of*
14 *the Senate and House of Representatives a report on*
15 *the results of the study conducted under paragraph*
16 *(1).*

17 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
18 *hereby authorized to be appropriated for the Department*
19 *of Health and Human Services for fiscal year 2000 such*
20 *sums as may be necessary to meet the requirements of sub-*
21 *section (a).*

CHAPTER 4—REPORTS**SEC. 1741. REPORTS ON CONSUMPTION OF METHAMPHETAMINE AND OTHER ILLICIT DRUGS IN RURAL AREAS, METROPOLITAN AREAS, AND CONSOLIDATED METROPOLITAN AREAS.**

The Secretary of Health and Human Services shall include in each National Household Survey on Drug Abuse appropriate prevalence data and information on the consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.

SEC. 1742. REPORT ON DIVERSION OF ORDINARY OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS.

(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:

(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.

1 (2) *Information submitted voluntarily from the*
2 *pharmaceutical and retail industries involved in the*
3 *manufacture, distribution, and sale of drug products*
4 *containing ephedrine, pseudoephedrine, and phenyl-*
5 *propranolamine, including information on changes in*
6 *the pattern, volume, or both, of sales of ordinary over-*
7 *the-counter pseudoephedrine and phenylpropranola-*
8 *mine products.*

9 **(b) REPORT.—**

10 **(1) REQUIREMENT.—***Not later than April 1,*
11 *2001, the Attorney General shall submit to Congress*
12 *a report on the study conducted under subsection (a).*

13 **(2) ELEMENTS.—***The report shall include—*

14 **(A)** *the findings of the Attorney General as*
15 *a result of the study; and*

16 **(B)** *such recommendations on the need to*
17 *establish additional measures to prevent diver-*
18 *sion of ordinary over-the-counter*
19 *pseudoephedrine and phenylpropranolamine (such*
20 *as a threshold on ordinary over-the-counter*
21 *pseudoephedrine and phenylpropranolamine prod-*
22 *ucts) as the Attorney General considers appro-*
23 *priate.*

24 **(3) MATTERS CONSIDERED.—***In preparing the*
25 *report, the Attorney General shall consider the com-*

1 *mers, and salts of optical isomers), review and amend*
2 *its guidelines to provide for increased penalties such*
3 *that those penalties corresponded to the quantity of*
4 *controlled substance that could reasonably have been*
5 *manufactured using the quantity of ephedrine, phen-*
6 *ylpropanolamine, or pseudoephedrine possessed or*
7 *distributed.*

8 (2) *CONVERSION RATIOS.—For the purposes of*
9 *the amendments made by this subsection, the quantity*
10 *of controlled substance that could reasonably have*
11 *been manufactured shall be determined by using a*
12 *table of manufacturing conversion ratios for ephed-*
13 *rine, phenylpropanolamine, and pseudoephedrine,*
14 *which table shall be established by the Sentencing*
15 *Commission based on scientific, law enforcement, and*
16 *other data the Sentencing Commission considers ap-*
17 *propriate.*

18 (c) *OTHER LIST I CHEMICALS.—In carrying this sec-*
19 *tion, the United States Sentencing Commission shall, with*
20 *respect to each offense described in subsection (a) involving*
21 *any list I chemical other than ephedrine, phenylpropanola-*
22 *mine, or pseudoephedrine, review and amend its guidelines*
23 *to provide for increased penalties such that those penalties*
24 *reflect the dangerous nature of such offenses, the need for*
25 *aggressive law enforcement action to fight such offenses, and*

1 *the extreme dangers associated with unlawful activity in-*
2 *volving methamphetamine and amphetamine, including—*

3 (1) *the rapidly growing incidence of controlled*
4 *substance manufacturing;*

5 (2) *the extreme danger inherent in manufac-*
6 *turing controlled substances;*

7 (3) *the threat to public safety posed by manufac-*
8 *turing controlled substances; and*

9 (4) *the recent increase in the importation, pos-*
10 *session, and distribution of list I chemicals for the*
11 *purpose of manufacturing controlled substances.*

12 (d) *EMERGENCY AUTHORITY TO SENTENCING COMMIS-*
13 *SION.—The United States Sentencing Commission shall*
14 *promulgate amendments pursuant to this section as soon*
15 *as practicable after the date of the enactment of this Act*
16 *in accordance with the procedure set forth in section 21(a)*
17 *of the Sentencing Act of 1987 (Public Law 100–182), as*
18 *though the authority under that Act had not expired.*

19 **SEC. 1752. MAIL ORDER REQUIREMENTS.**

20 *Section 310(b)(3) of the Controlled Substances Act (21*
21 *U.S.C. 830(b)(3)) is amended—*

22 (1) *by redesignating subparagraphs (A) and (B)*
23 *as subparagraphs (B) and (C), respectively;*

24 (2) *by inserting before subparagraph (B), as so*
25 *redesignated, the following new subparagraph (A):*

1 “(A) *As used in this paragraph:*

2 “(i) *The term ‘drug product’ means an*
3 *active ingredient in dosage form that has*
4 *been approved or otherwise may be lawfully*
5 *marketed under the Food, Drug, and Cos-*
6 *metic Act for distribution in the United*
7 *States.*

8 “(ii) *The term ‘valid prescription’*
9 *means a prescription which is issued for a*
10 *legitimate medical purpose by an indi-*
11 *vidual practitioner licensed by law to ad-*
12 *minister and prescribe the drugs concerned*
13 *and acting in the usual course of the practi-*
14 *tioner’s professional practice.”;*

15 (3) *in subparagraph (B), as so redesignated, by*
16 *inserting “or who engages in an export transaction”*
17 *after “nonregulated person”; and*

18 (4) *adding at the end the following:*

19 “(D) *Except as provided in subparagraph*
20 *(E), the following distributions to a nonregulated*
21 *person, and the following export transactions,*
22 *shall not be subject to the reporting requirement*
23 *in subparagraph (B):*

24 “(i) *Distributions of sample packages*
25 *of drug products when such packages con-*

1 *tain not more than 2 solid dosage units or*
2 *the equivalent of 2 dosage units in liquid*
3 *form, not to exceed 10 milliliters of liquid*
4 *per package, and not more than one pack-*
5 *age is distributed to an individual or resi-*
6 *dential address in any 30-day period.*

7 *“(ii) Distributions of drug products by*
8 *retail distributors that may not include*
9 *face-to-face transactions to the extent that*
10 *such distributions are consistent with the*
11 *activities authorized for a retail distributor*
12 *as specified in section 102(46).*

13 *“(iii) Distributions of drug products to*
14 *a resident of a long term care facility (as*
15 *that term is defined in regulations pre-*
16 *scribed by the Attorney General) or dis-*
17 *tributions of drug products to a long term*
18 *care facility for dispensing to or for use by*
19 *a resident of that facility.*

20 *“(iv) Distributions of drug products*
21 *pursuant to a valid prescription.*

22 *“(v) Exports which have been reported*
23 *to the Attorney General pursuant to section*
24 *1004 or 1018 or which are subject to a*
25 *waiver granted under section 1018(e)(2).*

1 “(vi) Any quantity, method, or type of
2 distribution or any quantity, method, or
3 type of distribution of a specific listed
4 chemical (including specific formulations or
5 drug products) or of a group of listed
6 chemicals (including specific formulations
7 or drug products) which the Attorney Gen-
8 eral has excluded by regulation from such
9 reporting requirement on the basis that such
10 reporting is not necessary for the enforce-
11 ment of this title or title III.

12 “(E) The Attorney General may revoke any
13 or all of the exemptions listed in subparagraph
14 (D) for an individual regulated person if he
15 finds that drug products distributed by the regu-
16 lated person are being used in violation of this
17 title or title III. The regulated person shall be
18 notified of the revocation, which will be effective
19 upon receipt by the person of such notice, as pro-
20 vided in section 1018(c)(1), and shall have the
21 right to an expedited hearing as provided in sec-
22 tion 1018(c)(2).”.

1 **SEC. 1753. INCREASED PENALTIES FOR DISTRIBUTING**
2 **DRUGS TO MINORS.**

3 *Section 418 of the Controlled Substances Act (21*
4 *U.S.C. 859) is amended—*

5 *(1) in subsection (a), by striking “one year” and*
6 *inserting “3 years”; and*

7 *(2) in subsection (b), by striking “one year” and*
8 *inserting “5 years”.*

9 **SEC. 1754. INCREASED PENALTY FOR DRUG TRAFFICKING**
10 **IN OR NEAR A SCHOOL OR OTHER PRO-**
11 **TECTED LOCATION.**

12 *Section 419 of the Controlled Substances Act (21*
13 *U.S.C. 860) is amended—*

14 *(1) in subsection (a), by striking “one year” and*
15 *inserting “3 years”; and*

16 *(2) in subsection (b), by striking “three years”*
17 *each place that term appears and inserting “5 years”.*

18 **SEC. 1755. ADVERTISEMENTS FOR DRUG PARAPHERNALIA**
19 **AND SCHEDULE I CONTROLLED SUBSTANCES.**

20 *(a) DRUG PARAPHERNALIA.—Subsection (a)(1) of sec-*
21 *tion 422 of the Controlled Substances Act (21 U.S.C. 863)*
22 *is amended by inserting “, directly or indirectly advertise*
23 *for sale,” after “sell”.*

24 *(b) DIRECTLY OR INDIRECTLY ADVERTISE FOR SALE*
25 *DEFINED.—Such section 422 is further amended by adding*
26 *at the end the following new subsection:*

1 “(g) *In this section, the term ‘directly or indirectly ad-*
 2 *vertise for sale’ means the use of any communication facil-*
 3 *ity (as that term is defined in section 403(b)) to post, pub-*
 4 *licize, transmit, publish, link to, broadcast, or otherwise ad-*
 5 *vertise any matter (including a telephone number or elec-*
 6 *tronic or mail address) with the intent to facilitate or pro-*
 7 *mote a transaction in.’”.*

8 (c) *SCHEDULE I CONTROLLED SUBSTANCES.—Section*
 9 *403(c) of such Act (21 U.S.C. 843(c)) is amended—*

10 (1) *by inserting “(1)” after “(c)”;* and

11 (2) *in paragraph (1), as so designated—*

12 (A) *in the first sentence, by inserting before*
 13 *the period the following: “, or to directly or indi-*
 14 *rectly advertise for sale (as that term is defined*
 15 *in section 422(g)) any Schedule I controlled sub-*
 16 *stance”;* and

17 (B) *in the second sentence, by striking*
 18 *“term ‘advertisement’” and inserting “term*
 19 *‘written advertisement’”.*

20 **SEC. 1756. THEFT AND TRANSPORTATION OF ANHYDROUS**
 21 **AMMONIA FOR PURPOSES OF ILLICIT PRO-**
 22 **DUCTION OF CONTROLLED SUBSTANCES.**

23 (a) *IN GENERAL.—Part D of the Controlled Substances*
 24 *Act (21 U.S.C. 841 et seq.) is amended by adding at the*
 25 *end the following:*

1 “ANHYDROUS AMMONIA

2 “SEC. 423. (a) *It is unlawful for any person—*

3 “*(1) to steal anhydrous ammonia, or*

4 “*(2) to transport stolen anhydrous ammonia*
5 *across State lines,*

6 *knowing, intending, or having reasonable cause to believe*
7 *that such anhydrous ammonia will be used to manufacture*
8 *a controlled substance in violation of this part.*

9 “*(b) Any person who violates subsection (a) shall be*
10 *imprisoned or fined, or both, in accordance with section*
11 *403(d) as if such violation were a violation of a provision*
12 *of section 403.”.*

13 “*(b) CLERICAL AMENDMENT.—The table of contents for*
14 *that Act is amended by inserting after the item relating*
15 *to section 421 the following new items:*

 “*Sec. 422. Drug paraphernalia.*

 “*Sec. 423. Anhydrous ammonia.”.*

16 “*(c) ASSISTANCE FOR CERTAIN RESEARCH.—*

17 “*(1) AGREEMENT.—The Administrator of the*
18 *Drug Enforcement Administration shall seek to enter*
19 *into an agreement with Iowa State University in*
20 *order to permit the University to continue and ex-*
21 *pand its current research into the development of*
22 *inert agents that, when added to anhydrous ammo-*
23 *nia, eliminate the usefulness of anhydrous ammonia*

1 *as an ingredient in the production of methamphet-*
2 *amine.*

3 (2) *REIMBURSABLE PROVISION OF FUNDS.—The*
4 *agreement under paragraph (1) may provide for the*
5 *provision to Iowa State University, on a reimbursable*
6 *basis, of \$500,000 for purposes the activities specified*
7 *in that paragraph.*

8 (3) *AUTHORIZATION OF APPROPRIATIONS.—*
9 *There is hereby authorized to be appropriated for the*
10 *Drug Enforcement Administration for fiscal year*
11 *2000, \$500,000 for purposes of carrying out the agree-*
12 *ment under this subsection.*

13 **SEC. 1757. CRIMINAL PROHIBITION ON DISTRIBUTION OF**
14 **CERTAIN INFORMATION RELATING TO THE**
15 **MANUFACTURE OF CONTROLLED SUB-**
16 **STANCES.**

17 (a) *IN GENERAL.—Part I of title 18, United States*
18 *Code, is amended by inserting after chapter 21 the following*
19 *new chapter:*

20 **“CHAPTER 22—CONTROLLED SUBSTANCES**

“Sec.

“421. *Distribution of information relating to manufacture of controlled substances.*

1 **“§ 421. Distribution of information relating to manu-**
2 **facture of controlled substances**

3 *“(a) PROHIBITION ON DISTRIBUTION OF INFORMATION*
4 *RELATING TO MANUFACTURE OF CONTROLLED SUB-*
5 *STANCES.—*

6 *“(1) CONTROLLED SUBSTANCE DEFINED.—In*
7 *this subsection, the term ‘controlled substance’ has the*
8 *meaning given that term in section 102(6) of the Con-*
9 *trolled Substances Act (21 U.S.C. 802(6)).*

10 *“(2) PROHIBITION.—It shall be unlawful for any*
11 *person—*

12 *“(A) to teach or demonstrate the manufac-*
13 *ture of a controlled substance, or to distribute by*
14 *any means information pertaining to, in whole*
15 *or in part, the manufacture of a controlled sub-*
16 *stance, with the intent that the teaching, dem-*
17 *onstration, or information be used for, or in fur-*
18 *therance of, an activity that constitutes a Fed-*
19 *eral crime; or*

20 *“(B) to teach or demonstrate to any person*
21 *the manufacture of a controlled substance, or to*
22 *distribute to any person, by any means, infor-*
23 *mation pertaining to, in whole or in part, the*
24 *manufacture of a controlled substance, knowing*
25 *that such person intends to use the teaching,*
26 *demonstration, or information for, or in further-*

1 *ance of, an activity that constitutes a Federal*
 2 *crime.*

3 “(b) *PENALTY.*—*Any person who violates subsection*
 4 *(a) shall be fined under this title, imprisoned not more than*
 5 *10 years, or both.*”.

6 (b) *CLERICAL AMENDMENT.*—*The table of chapters at*
 7 *the beginning of part I of title 18, United States Code, is*
 8 *amended by inserting after the item relating to chapter 21*
 9 *the following new item:*

 “**22. Controlled Substances** **421**”.

10 **CHAPTER 2—OTHER MATTERS**

11 **SEC. 1761. WAIVER AUTHORITY FOR PHYSICIANS WHO DIS-**
 12 **PENSE OR PRESCRIBE CERTAIN NARCOTIC**
 13 **DRUGS FOR MAINTENANCE TREATMENT OR**
 14 **DETOXIFICATION TREATMENT.**

15 (a) *REQUIREMENTS.*—*Section 303(g) of the Controlled*
 16 *Substances Act (21 U.S.C. 823(g)) is amended—*

17 (1) *in paragraph (2), by striking “(A) security”*
 18 *and inserting “(i) security”, and by striking “(B) the*
 19 *maintenance” and inserting “(ii) the maintenance”;*

20 (2) *by redesignating paragraphs (1) through (3)*
 21 *as subparagraphs (A) through (C), respectively;*

22 (3) *by inserting “(1)” after “(g)”;*

23 (4) *by striking “Practitioners who dispense” and*
 24 *inserting “Except as provided in paragraph (2),*
 25 *practitioners who dispense and prescribe”;* and

1 (5) *by adding at the end the following:*

2 “(2)(A) *Subject to subparagraphs (D), the require-*
3 *ments of paragraph (1) are waived in the case of the dis-*
4 *persing or prescribing, by a physician, of narcotic drugs*
5 *in schedule III, IV, or V, or combinations of such drugs,*
6 *if the physician meets the conditions specified in subpara-*
7 *graph (B) and the narcotic drugs or combinations of such*
8 *drugs meet the conditions specified in subparagraph (C).*

9 “(B)(i) *For purposes of subparagraph (A), the condi-*
10 *tions specified in this subparagraph with respect to a physi-*
11 *cian are that, before dispensing or prescribing narcotic*
12 *drugs in schedule III, IV, or V, or combinations of such*
13 *drugs, to patients for maintenance or detoxification treat-*
14 *ment, the physician submit to the Secretary and the Attor-*
15 *ney General a notification of the intent of the physician*
16 *to begin dispensing or prescribing the drugs or combina-*
17 *tions for such purpose, and that the notification to the Sec-*
18 *retary also contain the following certifications by the physi-*
19 *cian:*

20 “(I) *The physician—*

21 “(aa) *is a physician licensed under State*
22 *law; and*

23 “(bb) *has training or experience and the*
24 *ability to treat and manage opiate-dependent*
25 *patients.*

1 “(II) *With respect to patients to whom the physi-*
2 *cian will provide such drugs or combinations of*
3 *drugs, the physician has the capacity to refer the pa-*
4 *tients for appropriate counseling and other appro-*
5 *priate ancillary services.*

6 “(III) *In any case in which the physician is not*
7 *in a group practice, the total number of such patients*
8 *of the physician at any one time will not exceed the*
9 *applicable number. For purposes of this subclause, the*
10 *applicable number is 20, except that the Secretary*
11 *may by regulation change such total number.*

12 “(IV) *In any case in which the physician is in*
13 *a group practice, the total number of such patients of*
14 *the group practice at any one time will not exceed the*
15 *applicable number. For purposes of this subclause, the*
16 *applicable number is 20, except that the Secretary*
17 *may by regulation change such total number, and the*
18 *Secretary for such purposes may by regulation estab-*
19 *lish different categories on the basis of the number of*
20 *physicians in a group practice and establish for the*
21 *various categories different numerical limitations on*
22 *the number of such patients that the group practice*
23 *may have.*

24 “(ii)(I) *The Secretary may, in consultation with the*
25 *Administrator of the Drug Enforcement Administration,*

1 *the Administrator of the Substance Abuse and Mental*
2 *Health Services Administration, the Director of the Center*
3 *for Substance Abuse Treatment, the Director of the National*
4 *Institute on Drug Abuse, and the Commissioner of Food*
5 *and Drugs, issue regulations through notice and comment*
6 *rulemaking or practice guidelines to implement this para-*
7 *graph. The regulations or practice guidelines shall address*
8 *the following:*

9 “(aa) *Approval of additional credentialing bod-*
10 *ies and the responsibilities of credentialing bodies.*

11 “(bb) *Additional exemptions from the require-*
12 *ments of this paragraph and any regulations under*
13 *this paragraph.*

14 “(II) *Nothing in the regulations or practice guidelines*
15 *under this clause may authorize any Federal official or em-*
16 *ployee to exercise supervision or control over the practice*
17 *of medicine or the manner in which medical services are*
18 *provided.*

19 “(III)(aa) *The Secretary shall issue a Treatment Im-*
20 *provement Protocol containing best practice guidelines for*
21 *the treatment and maintenance of opiate-dependent pa-*
22 *tients. The Secretary shall develop the protocol in consulta-*
23 *tion with the Director of the National Institute on Drug*
24 *Abuse, the Director of the Center for Substance Abuse Treat-*
25 *ment, the Administrator of the Drug Enforcement Adminis-*

1 *tration, the Commissioner of Food and Drugs, the Adminis-*
2 *trator of the Substance Abuse and Mental Health Services*
3 *Administration, and other substance abuse disorder profes-*
4 *sionals. The protocol shall be guided by science.*

5 “(bb) *The protocol shall be issued not later than 120*
6 *days after the date of the enactment of the Methamphet-*
7 *amine Anti-Proliferation Act of 2000.*

8 “(IV) *For purposes of the regulations or practice*
9 *guidelines under subclause (I), a physician shall have train-*
10 *ing or experience under clause (i)(I)(bb) if the physician*
11 *meets one or more of the following conditions:*

12 “(aa) *The physician is certified in addiction*
13 *treatment by the American Society of Addiction Med-*
14 *icine, the American Board of Medical Specialties, the*
15 *American Osteopathic Academy of Addiction Medi-*
16 *cine, or any other certified body accredited by the*
17 *Secretary.*

18 “(bb) *The physician has been a clinical investi-*
19 *gator in a clinical trial conducted for purposes of se-*
20 *curing approval under section 505 of the Federal*
21 *Food, Drug, and Cosmetic Act (21 U.S.C. 355) or sec-*
22 *tion 351 of the Public Health Service Act (42 U.S.C.*
23 *262) of a narcotic drug in schedule III, IV, or V for*
24 *the treatment of addiction, if such approval was*
25 *granted.*

1 “(cc) *The physician has completed training*
2 *(through classroom situations, seminars, professional*
3 *society meetings, electronic communications, or other-*
4 *wise) provided by the American Society of Addiction*
5 *Medicine, the American Academy of Addiction Psy-*
6 *chiatry, the American Osteopathic Academy of Addic-*
7 *tion Medicine, the American Medical Association, the*
8 *American Osteopathic Association, the American Psy-*
9 *chiatric Association, or any other organization that*
10 *the Secretary determines appropriate for purposes of*
11 *this item. The curricula may include training in pa-*
12 *tient need for counseling regarding HIV, Hepatitis C,*
13 *and other infectious diseases, substance abuse coun-*
14 *seling, random drug testing, medical evaluation, an-*
15 *annual assessment, prenatal care, diagnosis of addic-*
16 *tion, rehabilitation services, confidentiality, and other*
17 *appropriate topics.*

18 “(dd) *The physician has training or experience*
19 *in the treatment and management of opiate-depend-*
20 *ent, which training or experience shall meet such cri-*
21 *teria as the Secretary may prescribe. Any such cri-*
22 *teria shall be effective for a period of three years after*
23 *the effective date of such criteria, but the Secretary*
24 *may extend the effective period of such criteria by ad-*
25 *ditional periods of three years for each extension if*

1 *the Secretary determines that such extension is appro-*
2 *prate for purposes of this item. Any such extension*
3 *shall go into effect only if the Secretary publishes a*
4 *notice of such extension in the Federal Register dur-*
5 *ing the 30-day period ending on the date of the end*
6 *of the three-year effective period of such criteria to*
7 *which such extension will apply.*

8 *“(ee) The physician is certified in addiction*
9 *treatment by a State medical licensing board, or an*
10 *entity accredited by such board, unless the Secretary*
11 *determines (after an opportunity for a hearing) that*
12 *the training provided by such board or entity was in-*
13 *adequate for the treatment and management of opi-*
14 *ate-dependent patients.*

15 *“(C) For purposes of subparagraph (A), the conditions*
16 *specified in this subparagraph with respect to narcotic*
17 *drugs in schedule III, IV, or V, or combinations of such*
18 *drugs, are as follows:*

19 *“(i) The drugs or combinations of drugs have,*
20 *under the Federal Food, Drug and Cosmetic Act or*
21 *section 351 of the Public Health Service Act, been ap-*
22 *proved for use in maintenance or detoxification treat-*
23 *ment.*

24 *“(ii) The drugs or combinations of drugs have*
25 *not been the subject of an adverse determination. For*

1 *purposes of this clause, an adverse determination is*
2 *a determination published in the Federal Register*
3 *and made by the Secretary, after consultation with*
4 *the Attorney General, that experience since the ap-*
5 *proval of the drug or combinations of drugs has*
6 *shown that the use of the drugs or combinations of*
7 *drugs for maintenance or detoxification treatment re-*
8 *quires additional standards respecting the qualifica-*
9 *tions of physicians to provide such treatment, or re-*
10 *quires standards respecting the quantities of the drugs*
11 *that may be provided for unsupervised use.*

12 *“(D)(i) A waiver under subparagraph (A) with respect*
13 *to a physician is not in effect unless (in addition to condi-*
14 *tions under subparagraphs (B) and (C)) the following con-*
15 *ditions are met:*

16 *“(I) The notification under subparagraph (B) is*
17 *in writing and states the name of the physician.*

18 *“(II) The notification identifies the registration*
19 *issued for the physician pursuant to subsection (f).*

20 *“(III) If the physician is a member of a group*
21 *practice, the notification states the names of the other*
22 *physicians in the practice and identifies the registra-*
23 *tions issued for the other physicians pursuant to sub-*
24 *section (f).*

1 “(IV) A period of 45 days has elapsed after the
2 date on which the notification was submitted, and
3 during such period the physician does not receive
4 from the Secretary a written notice that one or more
5 of the conditions specified in subparagraph (B), sub-
6 paragraph (C), or this subparagraph, have not been
7 met.

8 “(ii) The Secretary shall provide to the Attorney Gen-
9 eral such information contained in notifications under sub-
10 paragraph (B) as the Attorney General may request.

11 “(E) If in violation of subparagraph (A) a physician
12 dispenses or prescribes narcotic drugs in schedule III, IV,
13 or V, or combinations of such drugs, for maintenance treat-
14 ment or detoxification treatment, the Attorney General
15 may, for purposes of section 304(a)(4), consider the physi-
16 cian to have committed an act that renders the registration
17 of the physician pursuant to subsection (f) to be inconsistent
18 with the public interest.

19 “(F)(i) Upon determining that a physician meets the
20 conditions specified in subparagraph (B), the Secretary
21 shall notify the physician and the Attorney General.

22 “(ii) Upon receiving notice with respect to a physician
23 under clause (i), the Attorney General shall assign the phy-
24 sician an identification number under this paragraph for
25 inclusion with the physician’s current registration to pre-

1 *scribe narcotics. An identification number assigned a phy-*
2 *sician under this clause shall be appropriate to preserve the*
3 *confidentiality of a patient prescribed narcotic drugs cov-*
4 *ered by this paragraph by the physician.*

5 “(iii) *If the Secretary fails to make a determination*
6 *described in clause (i) by the end of the 45-day period begin-*
7 *ning on the date of the receipt by the Secretary of a notifica-*
8 *tion from a physician under subparagraph (B), the Attor-*
9 *ney General shall assign the physician an identification*
10 *number described in clause (ii) at the end of such period.*

11 “(G) *In this paragraph:*

12 “(i) *The term ‘group practice’ has the meaning*
13 *given such term in section 1877(h)(4) of the Social*
14 *Security Act.*

15 “(ii) *The term ‘physician’ has the meaning given*
16 *such term in section 1861(r) of the Social Security*
17 *Act.*

18 “(H)(i) *This paragraph takes effect on the date of the*
19 *enactment of the Methamphetamine Anti-Proliferation Act*
20 *of 2000, and remains in effect thereafter except as provided*
21 *in clause (iii) (relating to a decision by the Secretary or*
22 *the Attorney General that this paragraph should not re-*
23 *main in effect).*

24 “(ii) *For the purposes relating to clause (iii), the Sec-*
25 *retary and the Attorney General shall, during the 3-year*

1 *period beginning on the date of the enactment of the Meth-*
2 *amphetamine Anti-Proliferation Act of 2000, make deter-*
3 *minations in accordance with the following:*

4 “(I)(aa) *The Secretary shall—*

5 “(aaa) *make a determination of whether*
6 *treatments provided under waivers under sub-*
7 *paragraph (A) have been effective forms of main-*
8 *tenance treatment and detoxification treatment*
9 *in clinical settings;*

10 “(bbb) *make a determination regarding*
11 *whether such waivers have significantly in-*
12 *creased (relative to the beginning of such period)*
13 *the availability of maintenance treatment and*
14 *detoxification treatment; and*

15 “(ccc) *make a determination regarding*
16 *whether such waivers have adverse consequences*
17 *for the public health.*

18 “(bb) *In making determinations under this sub-*
19 *clause, the Secretary—*

20 “(aaa) *may collect data from the practi-*
21 *tioners for whom waivers under subparagraph*
22 *(A) are in effect;*

23 “(bbb) *shall issue appropriate guidelines or*
24 *regulations (in accordance with procedures for*
25 *substantive rules under section 553 of title 5,*

1 *United States Code*) specifying the scope of the
2 data that will be required to be provided under
3 this subclause and the means through which the
4 data will be collected; and

5 “(ccc) shall, with respect to collecting such
6 data, comply with applicable provisions of chap-
7 ter 6 of title 5, *United States Code* (relating to
8 a regulatory flexibility analysis), and of chapter
9 8 of such title (relating to congressional review
10 of agency rulemaking).

11 “(II) *The Attorney General shall—*

12 “(aa) make a determination of the extent to
13 which there have been violations of the numerical
14 limitations established under subparagraph (B)
15 for the number of individuals to whom a practi-
16 tioner may provide treatment; and

17 “(bb) make a determination regarding
18 whether waivers under subparagraph (A) have
19 increased (relative to the beginning of such pe-
20 riod) the extent to which narcotic drugs in sched-
21 ule III, IV, or V, or combinations of such drugs,
22 are being dispensed or prescribed, or possessed,
23 in violation of this Act.

24 “(iii) *If, before the expiration of the period specified*
25 *in clause (ii), the Secretary or the Attorney General pub-*

1 lishes in the Federal Register a decision, made on the basis
2 of determinations under such clause, that this paragraph
3 should not remain in effect, this paragraph ceases to be in
4 effect 60 days after the date on which the decision is so
5 published. The Secretary shall, in making any such deci-
6 sion, consult with the Attorney General, and shall, in pub-
7 lishing the decision in the Federal Register, include any
8 comments received from the Attorney General for inclusion
9 in the publication. The Attorney General shall, in making
10 any such decision, consult with the Secretary, and shall,
11 in publishing the decision in the Federal Register, include
12 any comments received from the Secretary for inclusion in
13 the publication.

14 “(I) During the 3-year period beginning on the date
15 of the enactment of the Methamphetamine Anti-Prolifera-
16 tion Act of 2000, a State may not preclude a practitioner
17 from dispensing or prescribing narcotic drugs in schedule
18 III, IV, or V, or combinations of such drugs, to patients
19 for maintenance or detoxification treatment in accordance
20 with this paragraph, or the other amendments made by sec-
21 tion 22 of that Act, unless, before the expiration of that 3-
22 year period, the State enacts a law prohibiting a practi-
23 tioner from dispensing or prescribing such drugs or com-
24 bination of drugs.”.

1 (b) *CONFORMING AMENDMENTS.*—Section 304 of the
2 *Controlled Substances Act* (21 U.S.C. 824) is amended—

3 (1) in subsection (a), in the matter following
4 paragraph (5), by striking “section 303(g)” each
5 place the term appears and inserting “section
6 303(g)(1)”; and

7 (2) in subsection (d), by striking “section
8 303(g)” and inserting “section 303(g)(1)”.

9 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There is
10 hereby authorized to be appropriated for purposes of activi-
11 ties under section 303(g)(2) of the *Controlled Substances*
12 *Act*, as added by subsection (a), amounts as follows:

13 (1) For fiscal year 2000, \$3,000,000.

14 (2) For each fiscal year after fiscal year 2000,
15 such sums as may be necessary for such fiscal year.

16 **Subtitle C—Cocaine Powder**

17 **SEC. 1771. SHORT TITLE.**

18 This subtitle may be cited as the “*Powder Cocaine*
19 *Sentencing Act of 2000*”.

20 **SEC. 1772. SENTENCING FOR VIOLATIONS INVOLVING CO-** 21 **CAINE POWDER.**

22 (a) *AMENDMENT OF CONTROLLED SUBSTANCES*
23 *ACT.*—

24 (1) *LARGE* *QUANTITIES.*—Section
25 401(b)(1)(A)(ii) of the *Controlled Substances Act* (21

1 *U.S.C. 841(b)(1)(A)(ii) is amended by striking “5*
2 *kilograms” and inserting “500 grams”.*

3 (2) SMALL QUANTITIES.—*Section*
4 *401(b)(1)(B)(ii) of the Controlled Substances Act (21*
5 *U.S.C. 841(b)(1)(B)(ii) is amended by striking “500*
6 *grams” and inserting “50 grams”.*

7 (b) *AMENDMENT OF CONTROLLED SUBSTANCES IM-*
8 *PORT AND EXPORT ACT.—*

9 (1) *LARGE QUANTITIES.—Section 1010(b)(1)(B)*
10 *of the Controlled Substances Import and Export Act*
11 *(21 U.S.C. 960(b)(1)(B)) is amended by striking “5*
12 *kilograms” and inserting “500 grams”.*

13 (2) *SMALL QUANTITIES.—Section 1010(b)(2)(B)*
14 *of the Controlled Substances Import and Export Act*
15 *(21 U.S.C. 960(b)(2)(B)) is amended by striking “500*
16 *grams” and inserting “50 grams”.*

17 (c) *AMENDMENT OF SENTENCING GUIDELINES.—Pur-*
18 *suant to section 994 of title 28, United States Code, the*
19 *United States Sentencing Commission shall amend the Fed-*
20 *eral sentencing guidelines to reflect the amendments made*
21 *by this section.*

1 **Subtitle D—Education Matters**

2 **SEC. 1781. SAFE SCHOOLS.**

3 (a) *AMENDMENTS.*—Part F of title XIV of the *Elementary and Secondary Education Act of 1965* (20 U.S.C. 8921 et seq.) is amended as follows:

6 (1) *SHORT TITLE.*—Section 14601(a) is amended by replacing “*Gun-Free*” with “*Safe*”, and “1994” with “1999”.

9 (2) *REQUIREMENTS.*—Section 14601(b)(1) is amended by inserting after “determined” the following: “to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or”.

16 (3) *DEFINITIONS.*—Section 14601(b)(4) is amended by replacing “*Definition*” with “*Definitions*” in the catchline, by replacing “*section*” in the matter under the catchline with “*part*”, by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semicolon, and by adding new subparagraphs (B), (C), and (D) as follows:

24 “(B) the term ‘illegal drug’ means a controlled substance, as defined in section 102(6) of

1 *the Controlled Substances Act (21 U.S.C.*
2 *802(6)), the possession of which is unlawful*
3 *under the Act (21 U.S.C. 801 et seq.) or under*
4 *the Controlled Substances Import and Export*
5 *Act (21 U.S.C. 951 et seq.), but does not mean*
6 *a controlled substance used pursuant to a valid*
7 *prescription or as authorized by law; and*

8 “(C) *the term ‘illegal drug paraphernalia’*
9 *means drug paraphernalia, as defined in section*
10 *422(d) of the Controlled Substances Act (21*
11 *U.S.C. 863(d)), except that the first sentence of*
12 *that section shall be applied by inserting ‘or*
13 *under the Controlled Substances Import and Ex-*
14 *port Act (21 U.S.C. 951 et seq.)’, before the pe-*
15 *riod.*

16 “(D) *the term ‘felonious quantities of an il-*
17 *legal drug’ means any quantity of an illegal*
18 *drug—*

19 “(i) *possession of which quantity*
20 *would, under Federal, State, or local law,*
21 *either constitute a felony or indicate an in-*
22 *tent to distribute; or*

23 “(ii) *that is possessed with an intent to*
24 *distribute.”.*

1 (4) *REPORT TO STATE.*—Section
2 14601(d)(2)(C) is amended by inserting “illegal
3 drugs or” before “weapons”.

4 (5) *REPEALER.*—Section 14601 is amended
5 by striking subsection (f).

6 (6) *POLICY REGARDING CRIMINAL JUSTICE*
7 *SYSTEM REFERRAL.*—Section 14602(a) is
8 amended by replacing “served by” with “under
9 the jurisdiction of”, and by inserting after
10 “who” the following: “is in possession of an ille-
11 gal drug, or illegal drug paraphernalia, on
12 school property under the jurisdiction of, or in
13 a vehicle operated by an employee or agent of,
14 such agency, or who”.

15 (7) *DATA AND POLICY DISSEMINATION*
16 *UNDER IDEA.*—Section 14603 is amended by in-
17 serting “current” before “policy”, by striking “in
18 effect on October 20, 1994”, by striking all the
19 matter after “schools” and inserting a period
20 thereafter, and by inserting before “engaging”
21 the following: “possessing illegal drugs, or illegal
22 drug paraphernalia, on school property, or in
23 vehicles operated by employees or agents of,
24 schools or local educational agencies, or”.

1 (b) *COMPLIANCE DATE; REPORTING.*—(1) *States shall*
2 *have 2 years from the date of the enactment of this Act to*
3 *comply with the requirements established in the amend-*
4 *ments made by subsection (a).*

5 (2) *Not later than 3 years after the date of the enact-*
6 *ment of this Act, the Secretary of Education shall submit*
7 *to Congress a report on any State that is not in compliance*
8 *with the requirements of this section.*

9 (3) *Not later than 2 years after the date of the enact-*
10 *ment of this Act, the Secretary of Education shall submit*
11 *to Congress a report analyzing the strengths and weaknesses*
12 *of approaches regarding the disciplining of children with*
13 *disabilities.*

14 **SEC. 1782. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

15 *Subpart 1 of part A of title I of the Elementary and*
16 *Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.)*
17 *is amended by inserting after section 1115A of such Act*
18 *(20 U.S.C. 6316) the following:*

19 **“SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL**
20 **CHOICE.**

21 “(a) *IN GENERAL.*—*Notwithstanding any other provi-*
22 *sion of law, if a student is eligible to be served under section*
23 *1115(b), or attends a school eligible for a schoolwide pro-*
24 *gram under section 1114, and becomes a victim of a violent*
25 *criminal offense, including drug-related violence, while in*

1 *or on the grounds of a public elementary school or sec-*
2 *ondary school that the student attends and that receives as-*
3 *sistance under this part, then the local educational agency*
4 *may use funds provided under this part or under any other*
5 *Federal education program to pay the supplementary costs*
6 *for such student to attend another school. The agency may*
7 *use the funds to pay for the supplementary costs of such*
8 *student to attend any other public or private elementary*
9 *school or secondary school, including a religious school, in*
10 *the same State as the school where the criminal offense oc-*
11 *curred, that is selected by the student's parent. The State*
12 *educational agency shall determine what actions constitute*
13 *a violent criminal offense for purposes of this section.*

14 “(b) *SUPPLEMENTARY COSTS.—The supplementary*
15 *costs referred to in subsection (a) shall not exceed—*

16 “(1) *in the case of a student for whom funds*
17 *under this section are used to enable the student to at-*
18 *tend a public elementary school or secondary school*
19 *served by a local educational agency that also serves*
20 *the school where the violent criminal offense occurred,*
21 *the costs of supplementary educational services and*
22 *activities described in section 1114(b) or 1115(c) that*
23 *are provided to the student;*

24 “(2) *in the case of a student for whom funds*
25 *under this section are used to enable the student to at-*

1 *tend a public elementary school or secondary school*
2 *served by a local educational agency that does not*
3 *serve the school where the violent criminal offense oc-*
4 *curred but is located in the same State—*

5 *“(A) the costs of supplementary educational*
6 *services and activities described in section*
7 *1114(b) or 1115(c) that are provided to the stu-*
8 *dent; and*

9 *“(B) the reasonable costs of transportation*
10 *for the student to attend the school selected by the*
11 *student’s parent; and*

12 *“(3) in the case of a student for whom funds*
13 *under this section are used to enable the student to at-*
14 *tend a private elementary school or secondary school,*
15 *including a religious school, the costs of tuition, re-*
16 *quired fees, and the reasonable costs of such transpor-*
17 *tation.*

18 *“(c) CONSTRUCTION.—Nothing in this Act or any*
19 *other Federal law shall be construed to prevent a parent*
20 *assisted under this section from selecting the public or pri-*
21 *vate, including religious, elementary school or secondary*
22 *school that a child of the parent will attend within the*
23 *State.*

24 *“(d) CONSIDERATION OF ASSISTANCE.—Subject to sub-*
25 *section (h), assistance made available under this section*

1 *that is used to pay the costs for a student to attend a private*
2 *or religious school shall not be considered to be Federal aid*
3 *to the school, and the Federal Government shall have no*
4 *authority to influence or regulate the operations of a private*
5 *or religious school as a result of assistance received under*
6 *this section.*

7 “(e) *CONTINUING ELIGIBILITY.*—*A student assisted*
8 *under this section shall remain eligible to continue receiving*
9 *assistance under this section for at least 3 academic years*
10 *without regard to whether the student is eligible for assist-*
11 *ance under section 1114 or 1115(b).*

12 “(f) *TUITION CHARGES.*—*Assistance under this section*
13 *may not be used to pay tuition or required fees at a private*
14 *elementary school or secondary school in an amount that*
15 *is greater than the tuition and required fees paid by stu-*
16 *dents not assisted under this section at such school.*

17 “(g) *SPECIAL RULE.*—*Any school receiving assistance*
18 *provided under this section shall comply with title VI of*
19 *the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and*
20 *not discriminate on the basis race, color, or national origin.*

21 “(h) *ASSISTANCE; TAXES AND OTHER FEDERAL PRO-*
22 *GRAMS.*—

23 “(1) *ASSISTANCE TO FAMILIES, NOT SCHOOLS.*—
24 *Assistance provided under this section shall be consid-*
25 *ered to be aid to families, not schools. Use of such as-*

1 *assistance at a school shall not be construed to be Fed-*
2 *eral financial aid or assistance to that school.*

3 “(2) *TAXES AND DETERMINATIONS OF ELIGI-*
4 *BILITY FOR OTHER FEDERAL PROGRAMS.—Assistance*
5 *provided under this section to a student shall not be*
6 *considered to be income of the student or the parent*
7 *of such student for Federal, State, or local tax pur-*
8 *poses or for determining eligibility for any other Fed-*
9 *eral program.*

10 “(i) *PART B OF THE INDIVIDUALS WITH DISABILITIES*
11 *EDUCATION ACT.—Nothing in this section shall be con-*
12 *strued to affect the requirements of part B of the Individ-*
13 *uals with Disabilities Education Act (20 U.S.C. 1411 et*
14 *seq.).*

15 “(j) *MAXIMUM AMOUNT.—Notwithstanding any other*
16 *provision of this section, the amount of assistance provided*
17 *under this part for a student shall not exceed the per pupil*
18 *expenditure for elementary or secondary education, as ap-*
19 *propriate, by the local educational agency that serves the*
20 *school where the criminal offense occurred for the fiscal year*
21 *preceding the fiscal year for which the determination is*
22 *made.”.*

23 **SEC. 1783. TRANSFER OF REVENUES.**

24 (a) *IN GENERAL.—Notwithstanding any other provi-*
25 *sion of Federal law, a State, a State educational agency,*

1 *or a local educational agency may transfer any non-Federal*
2 *public funds associated with the education of a student who*
3 *is a victim of a violent criminal offense while in or on the*
4 *grounds of a public elementary school or secondary school*
5 *served by a local educational agency to another local edu-*
6 *cational agency or to a private elementary school or sec-*
7 *ondary school, including a religious school.*

8 **(b) DEFINITIONS.**—*For the purpose of subsection (a),*
9 *the terms “elementary school”, “secondary school”, “local*
10 *educational agency”, and “State educational agency” have*
11 *the meanings given such terms in section 14101 of the Ele-*
12 *mentary and Secondary Education Act of 1965 (20 U.S.C.*
13 *8801).*

14 ***Subtitle E—Miscellaneous***

15 ***SEC. 1791. NOTICE; CLARIFICATION.***

16 **(a) NOTICE OF ISSUANCE.**—*Section 3103a of title 18,*
17 *United States Code, is amended by adding at the end the*
18 *following new sentence: “With respect to any issuance under*
19 *this section or any other provision of law (including section*
20 *3117 and any rule), any notice required, or that may be*
21 *required, to be given may be delayed pursuant to the stand-*
22 *ards, terms, and conditions set forth in section 2705, unless*
23 *otherwise expressly provided by statute.”.*

1 (b) *CLARIFICATION.*—(1) *Section 2(e) of Public Law*
2 *95–78 (91 Stat. 320) is amended by adding at the end the*
3 *following:*

4 *“Subdivision (d) of such rule, as in effect on this date, is*
5 *amended by inserting ‘tangible’ before ‘property’ each place*
6 *it occurs.”.*

7 (2) *The amendment made by paragraph (1) shall take*
8 *effect on the date of the enactment of this Act.*

9 **SEC. 1792. DOMESTIC TERRORISM ASSESSMENT AND RE-**
10 **COVERY.**

11 (a) *IN GENERAL.*—*The Federal Bureau of Investiga-*
12 *tion shall prepare a study assessing—*

13 (1) *the threat posed by the Fuerzas Armadas de*
14 *Liberacion Nacional Puertorriquena (FALN) and Los*
15 *Macheteros terrorist organizations to the United*
16 *States and its territories as of July 31, 1999; and*

17 (2) *what effect the President’s offer of clemency*
18 *to 16 FALN and Los Macheteros members on August*
19 *11, 1999, and the subsequent release of 11 of those*
20 *members, will have on the threat posed by those ter-*
21 *rorist organizations to the United States and its ter-*
22 *ritories.*

23 (b) *ISSUES EXAMINED.*—*In conducting and preparing*
24 *the study under subsection (a), the Federal Bureau of Inves-*
25 *tigation shall address—*

1 (1) *the threat posed by the FALN and Los*
2 *Macheteros organizations to law enforcement officers,*
3 *prosecutors, defense attorneys, witnesses, and judges*
4 *involved in the prosecution of members of the FALN*
5 *and Los Macheteros, both in the United States and its*
6 *territories;*

7 (2) *the roles played by each the 16 members of-*
8 *ferred clemency by the President on August 11, 1999,*
9 *in the FALN and Los Macheteros organizations;*

10 (3) *the extent to which the FALN and Los*
11 *Macheteros organizations are associated with other*
12 *known terrorist organizations or countries suspected*
13 *of sponsoring terrorism;*

14 (4) *the threat posed to the national security in-*
15 *terests of the United States by the FALN and Los*
16 *Macheteros organizations;*

17 (5) *whether the offer of clemency to, or release of,*
18 *any of the 16 FALN or Los Macheteros members*
19 *would violate, or be inconsistent with, the United*
20 *States' obligations under international treaties and*
21 *agreements governing terrorist activity; and*

22 (6) *the effect on law enforcement's ability to solve*
23 *open cases and apprehend fugitives resulting from the*
24 *offer of clemency to the 16 FALN and Los Macheteros*
25 *members, without first requiring each of them to pro-*

1 *vide the government all truthful information and evi-*
2 *dence he or she has concerning open investigations*
3 *and fugitives associated with the FALN and Los*
4 *Macheteros organizations.*

5 *(c) REPORT.—Not later than 30 days after the date*
6 *of the enactment of this Act, the Federal Bureau of Inves-*
7 *tigation shall submit to Congress a report on the study con-*
8 *ducted under subsection (a).*

9 **SEC. 1793. ANTIDRUG MESSAGES ON FEDERAL GOVERN-**
10 **MENT INTERNET WEBSITES.**

11 *Not later than 90 days after the date of the enactment*
12 *of this Act, the head of each department, agency, and estab-*
13 *lishment of the Federal Government shall, in consultation*
14 *with the Director of the Office of National Drug Control*
15 *Policy, place antidrug messages on appropriate Internet*
16 *websites controlled by such department, agency, or establish-*
17 *ment which messages shall, where appropriate, contain an*
18 *electronic hyperlink to the Internet website, if any, of the*
19 *Office.*

20 **SEC. 1794. STATE SCHOOLS.**

21 *(a) AMENDMENTS.—Part F of title XIV of the Elemen-*
22 *tary and Secondary Education Act of 1965 (20 U.S.C. 8921*
23 *et seq.) is amended as follows:*

1 (1) *SHORT TITLE.*—Section 14601(a) is amended
2 by replacing “Gun-Free” with “Safe”, and “1994”
3 with “1999”.

4 (2) *REQUIREMENTS.*—Section 14601(b)(1) is
5 amended by inserting after “determined” the fol-
6 lowing: “to be in possession of felonious quantities of
7 an illegal drug, on school property under the jurisdic-
8 tion of, or in a vehicle operated by an employee or
9 agent of, a local educational agency in that State,
10 or”.

11 (3) *DEFINITIONS.*—Section 14601(b)(4) is
12 amended by replacing “Definition” with “Defini-
13 tions” in the catchline, by replacing “section” in the
14 matter under the catchline with “part”, by redesignig-
15 nating the matter under the catchline after the
16 comma as subparagraph (A), by replacing the period
17 with a semicolon, and by adding new subparagraphs
18 (B), (C), and (D) as follows:

19 “(B) The term ‘illegal drug’ means a con-
20 trolled substance, as defined in section 102(6) of
21 the Controlled Substances Act (21 U.S.C.
22 802(6)), the possession of which is unlawful
23 under the Act (21 U.S.C. 801 et seq.) or under
24 the Controlled Substances Import and Export
25 Act (21 U.S.C. 951 et seq.), but does not mean

1 *a controlled substance used pursuant to a valid*
2 *prescription or as authorized by law.*

3 “(C) *The term ‘illegal drug paraphernalia’*
4 *means drug paraphernalia, as defined in section*
5 *422(d) of the Controlled Substances Act (21*
6 *U.S.C. 863(d)), except that the first sentence of*
7 *that section shall be applied by inserting ‘or*
8 *under the Controlled Substances Import and Ex-*
9 *port Act (21 U.S.C. 951 et seq.)’, before the pe-*
10 *riod.*

11 “(D) *The term ‘felonious quantities of an il-*
12 *legal drug’ means any quantity of an illegal*
13 *drug—*

14 “(i) *possession of which quantity*
15 *would, under Federal, State, or local law,*
16 *either constitute a felony or indicate an in-*
17 *tent to distribute; or*

18 “(ii) *that is possessed with an intent to*
19 *distribute.”.*

20 (4) *REPORT TO STATE.—Section 14601(d)(2)(C)*
21 *is amended by inserting “illegal drugs or” before*
22 *“weapons”.*

23 (5) *REPEALER.—Section 14601 is amended by*
24 *striking subsection (f).*

1 (6) *POLICY REGARDING CRIMINAL JUSTICE SYS-*
2 *TEM REFERRAL.*—Section 14602(a) is amended by re-
3 placing “served by” with “under the jurisdiction of”,
4 and by inserting after “who” the following: “is in
5 possession of an illegal drug, or illegal drug para-
6 phernalia, on school property under the jurisdiction
7 of, or in a vehicle operated by an employee or agent
8 of, such agency, or who”.

9 (7) *DATA AND POLICY DISSEMINATION UNDER*
10 *IDEA.*—Section 14603 is amended by inserting “cur-
11 rent” before “policy”, by striking “in effect on Octo-
12 ber 20, 1994”, by striking all the matter after
13 “schools” and inserting a period thereafter, and by
14 inserting before “engaging” the following: “possessing
15 illegal drugs, or illegal drug paraphernalia, on school
16 property, or in vehicles operated by employees or
17 agents of, schools or local educational agencies, or”.

18 (b) *COMPLIANCE DATE; REPORTING.*—(1) States shall
19 have 2 years from the date of enactment of this Act to com-
20 ply with the requirements established in the amendments
21 made by subsection (a).

22 (2) Not later than 3 years after the date of enactment
23 of this Act, the Secretary of Education shall submit to Con-
24 gress a report on any State that is not in compliance with
25 the requirements of this part.

1 (3) *Not later than 2 years after the date of enactment*
2 *of this Act, the Secretary of Education shall submit to Con-*
3 *gress a report analyzing the strengths and weaknesses of*
4 *approaches regarding the disciplining of children with dis-*
5 *abilities.*

6 **SEC. 1795. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

7 *Subpart 1 of part A of title I of the Elementary and*
8 *Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.)*
9 *is amended by inserting after section 1115A of such Act*
10 *(20 U.S.C. 6316) the following:*

11 **“SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL**
12 **CHOICE.**

13 “(a) *IN GENERAL.—Notwithstanding any other provi-*
14 *sion of law, if a student is eligible to be served under section*
15 *1115(b), or attends a school eligible for a schoolwide pro-*
16 *gram under section 1114, and becomes a victim of a violent*
17 *criminal offense, including drug-related violence, while in*
18 *or on the grounds of a public elementary school or sec-*
19 *ondary school that the student attends and that receives as-*
20 *sistance under this part, then the local educational agency*
21 *may use funds provided under this part or under any other*
22 *Federal education program to pay the supplementary costs*
23 *for such student to attend another school. The agency may*
24 *use the funds to pay for the supplementary costs of such*
25 *student to attend any other public or private elementary*

1 *school or secondary school, including a religious school, in*
2 *the same State as the school where the criminal offense oc-*
3 *curred, that is selected by the student's parent. The State*
4 *educational agency shall determine what actions constitute*
5 *a violent criminal offense for purposes of this section.*

6 “(b) *SUPPLEMENTARY COSTS.—The supplementary*
7 *costs referred to in subsection (a) shall not exceed—*

8 “(1) *in the case of a student for whom funds*
9 *under this section are used to enable the student to at-*
10 *tend a public elementary school or secondary school*
11 *served by a local educational agency that also serves*
12 *the school where the violent criminal offense occurred,*
13 *the costs of supplementary educational services and*
14 *activities described in section 1114(b) or 1115(c) that*
15 *are provided to the student;*

16 “(2) *in the case of a student for whom funds*
17 *under this section are used to enable the student to at-*
18 *tend a public elementary school or secondary school*
19 *served by a local educational agency that does not*
20 *serve the school where the violent criminal offense oc-*
21 *curred but is located in the same State—*

22 “(A) *the costs of supplementary educational*
23 *services and activities described in section*
24 *1114(b) or 1115(c) that are provided to the stu-*
25 *dent; and*

1 “(B) the reasonable costs of transportation
2 for the student to attend the school selected by the
3 student’s parent; and

4 “(3) in the case of a student for whom funds
5 under this section are used to enable the student to at-
6 tend a private elementary school or secondary school,
7 including a religious school, the costs of tuition, re-
8 quired fees, and the reasonable costs of such transpor-
9 tation.

10 “(c) CONSTRUCTION.—Nothing in this Act or any
11 other Federal law shall be construed to prevent a parent
12 assisted under this section from selecting the public or pri-
13 vate, including religious, elementary school or secondary
14 school that a child of the parent will attend within the
15 State.

16 “(d) CONSIDERATION OF ASSISTANCE.—Subject to sub-
17 section (h), assistance made available under this section
18 that is used to pay the costs for a student to attend a private
19 or religious school shall not be considered to be Federal aid
20 to the school, and the Federal Government shall have no
21 authority to influence or regulate the operations of a private
22 or religious school as a result of assistance received under
23 this section.

24 “(e) CONTINUING ELIGIBILITY.—A student assisted
25 under this section shall remain eligible to continue receiving

1 *assistance under this section for at least 3 academic years*
2 *without regard to whether the student is eligible for assist-*
3 *ance under section 1114 or 1115(b).*

4 “(f) *TUITION CHARGES.*—*Assistance under this section*
5 *may not be used to pay tuition or required fees at a private*
6 *elementary school or secondary school in an amount that*
7 *is greater than the tuition and required fees paid by stu-*
8 *dents not assisted under this section at such school.*

9 “(g) *SPECIAL RULE.*—*Any school receiving assistance*
10 *provided under this section shall comply with title VI of*
11 *the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and*
12 *not discriminate on the basis of race, color, or national ori-*
13 *gin.*

14 “(h) *ASSISTANCE; TAXES AND OTHER FEDERAL PRO-*
15 *GRAMS.*—

16 “(1) *ASSISTANCE TO FAMILIES, NOT SCHOOLS.*—
17 *Assistance provided under this section shall be consid-*
18 *ered to be aid to families, not schools. Use of such as-*
19 *sistance at a school shall not be construed to be Fed-*
20 *eral financial aid or assistance to that school.*

21 “(2) *TAXES AND DETERMINATIONS OF ELIGI-*
22 *BILITY FOR OTHER FEDERAL PROGRAMS.*—*Assistance*
23 *provided under this section to a student shall not be*
24 *considered to be income of the student or the parent*
25 *of such student for Federal, State, or local tax pur-*

1 poses or for determining eligibility for any other Fed-
2 eral program.

3 “(i) *PART B OF THE INDIVIDUALS WITH DISABILITIES*
4 *EDUCATION ACT.*—Nothing in this section shall be con-
5 strued to affect the requirements of part B of the Individ-
6 uals with Disabilities Education Act (20 U.S.C. 1411 et
7 seq.).

8 “(j) *MAXIMUM AMOUNT.*—Notwithstanding any other
9 provision of this section, the amount of assistance provided
10 under this part for a student shall not exceed the per pupil
11 expenditure for elementary or secondary education, as ap-
12 propriate, by the local educational agency that serves the
13 school where the criminal offense occurred for the fiscal year
14 preceding the fiscal year for which the determination is
15 made.”.

16 **SEC. 1796. TRANSFER OF REVENUES.**

17 (a) *IN GENERAL.*—Notwithstanding any other provi-
18 sion of Federal law, a State, a State educational agency,
19 or a local educational agency may transfer any non-Federal
20 public funds associated with the education of a student who
21 is a victim of a violent criminal offense while in or on the
22 grounds of a public elementary school or secondary school
23 served by a local educational agency to another local edu-
24 cational agency or to a private elementary school or sec-
25 ondary school, including a religious school.

1 (b) *DEFINITIONS.*—For the purpose of subsection (a),
2 the terms “elementary school”, “secondary school”, “local
3 educational agency”, and “State educational agency” have
4 the meanings given such terms in section 14101 of the Ele-
5 mentary and Secondary Education Act of 1965 (20 U.S.C.
6 8801).

7 **SEC. 1797. INCREASED PENALTIES FOR DISTRIBUTING**
8 **DRUGS TO MINORS.**

9 Section 418 of the Controlled Substances Act (21
10 U.S.C. 859) is amended—

11 (1) in subsection (a), by striking “one year” and
12 inserting “3 years”; and

13 (2) in subsection (b), by striking “one year” and
14 inserting “5 years”.

15 **SEC. 1798. INCREASED PENALTY FOR DRUG TRAFFICKING**
16 **IN OR NEAR A SCHOOL OR OTHER PRO-**
17 **TECTED LOCATION.**

18 Section 419 of the Controlled Substances Act (21
19 U.S.C. 860) is amended—

20 (1) in subsection (a), by striking “one year” and
21 inserting “3 years”; and

22 (2) in subsection (b), by striking “three years”
23 each place that term appears and inserting “5 years”.

1 **SEC. 1799. SEVERABILITY.**

2 *Any provision of this title held to be invalid or unen-*
3 *forceable by its terms, or as applied to any person or cir-*
4 *cumstance, shall be construed as to give the maximum effect*
5 *permitted by law, unless such provision is held to be utterly*
6 *invalid or unenforceable, in which event such provision*
7 *shall be severed from this title and shall not affect the appli-*
8 *cability of the remainder of this title, or of such provision,*
9 *to other persons not similarly situated or to other, dis-*
10 *similar circumstances.*

11 **TITLE XVIII—PROTECTION FROM**
12 **THE IMPACT OF BANKRUPTCY**
13 **OF CERTAIN ELECTRIC UTILI-**
14 **TIES**

15 **SEC. 1801. SHORT TITLE.**

16 *This title may be cited as the “Emergency Imported*
17 *Electric Power Price Reduction Act of 2000”.*

18 **SEC. 1802. FINDINGS AND PURPOSES.**

19 *(a) FINDINGS.—Congress finds that—*

20 *(1) the protection of the public health and wel-*
21 *fare, the preservation of national security, and the*
22 *regulation of interstate and foreign commerce require*
23 *that electric power imported into the United States be*
24 *priced fairly and competitively;*

1 (2) *the importation of electric power into the*
2 *United States is a matter vested with the public in-*
3 *terest that—*

4 (A) *involves an essential and extensively*
5 *regulated infrastructure industry; and*

6 (B) *affects consumers, the cost of goods*
7 *manufactured and services rendered, and the eco-*
8 *nomie well-being and livelihood of individuals*
9 *and society;*

10 (3) *it is essential that imported electric power be*
11 *priced—*

12 (A) *in a manner that is competitive with*
13 *domestic electric power and thereby contribute to*
14 *robust and sound national and regional econo-*
15 *mies; and*

16 (B) *not at a rate that is so high as to result*
17 *in the imminent bankruptcy of electric utilities*
18 *in a State; and*

19 (4) *the purchase of imported electric power by*
20 *the Vermont Joint Owners under the Firm Power and*
21 *Energy Contract with Hydro-Quebec dated December*
22 *4, 1987—*

23 (A) *is not consistent with the findings stat-*
24 *ed in paragraphs (1), (2), and (3); and*

1 (B) threatens the economic well-being of the
2 States and regions in which the imported electric
3 power is provided contrary to the public policy
4 of the United States as set forth in the findings
5 stated in paragraphs (1), (2), and (3).

6 (b) *PURPOSES.*—The purposes of this title are—

7 (1) to facilitate the public policy of the United
8 States as set forth in the findings stated in para-
9 graphs (1), (2), and (3) of subsection (a);

10 (2) to remove a serious threat to the economic
11 well-being of the States and regions in which im-
12 ported electric power is provided under the contract
13 referred to in section 1802(a)(4); and

14 (3) to facilitate revisions to the price elements of
15 the contract referred to in section 1802(a)(4) by de-
16 claring and making unlawful, effective 180 days after
17 the date of enactment of this Act, the contract as it
18 exists on the date of enactment of this Act.

19 **SEC. 1803. UNLAWFUL CONTRACT AND AMENDED CON-**
20 **TRACT.**

21 (a) *IN GENERAL.*—Effective on the date that is 180
22 days after the date of enactment of this Act, the contract
23 referred to in section 1802(a)(4), as the contract exists on
24 the date of enactment of this Act, shall be void.

1 **(b) AMENDMENT OF CONTRACT.**—*This title does not*
2 *preclude the parties to the contract referred to in section*
3 *1802(a)(4) from amending the contract or entering into a*
4 *new contract after the date of enactment of this Act in a*
5 *manner that is consistent with the findings and purposes*
6 *of this title.*

7 **SEC. 1804. EXCLUSIVE ENFORCEMENT.**

8 **(a) IN GENERAL.**—*Only the Attorney General of a*
9 *State in which electric power is provided under the contract*
10 *referred to in section 1802(a)(4), as the contract may be*
11 *amended after the date of enactment of this Act, may bring*
12 *a civil action in United States district court for an order*
13 *that—*

14 (1) *declares the amended contract not consistent*
15 *with the findings and purposes of this title and is*
16 *therefore void;*

17 (2) *enjoins performance of the amended contract;*
18 *and*

19 (3) *relieves the electric utilities that are party to*
20 *the amended contract of any liability under the con-*
21 *tract.*

22 **(b) TIMING.**—*A civil action under subsection (a) shall*
23 *be brought not later than 1 year after the date of the amend-*
24 *ed contract or new contract.*

1 **TITLE XIX—CONSUMER CREDIT**
2 **DISCLOSURE**

3 **SEC. 1901. ENHANCED DISCLOSURES UNDER AN OPEN END**
4 **CREDIT PLAN.**

5 (a) *MINIMUM PAYMENT DISCLOSURES.*—Section
6 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b))
7 is amended by adding at the end the following:

8 “(11)(A) *In the case of an open end credit plan*
9 *that requires a minimum monthly payment of not*
10 *more than 4 percent of the balance on which finance*
11 *charges are accruing, the following statement, located*
12 *on the front of the billing statement, disclosed clearly*
13 *and conspicuously, in typeface no smaller than the*
14 *largest typeface used to make other clear and con-*
15 *spicuous disclosures required under this subsection:*
16 *‘Minimum Payment Warning: Making only the min-*
17 *imum payment will increase the interest you pay and*
18 *the time it takes to repay your balance. For example,*
19 *making only the typical 2% minimum monthly pay-*
20 *ment on a balance of \$1,000 at an interest rate of*
21 *17% would take 88 months to repay the balance in*
22 *full. For an estimate of the time it would take to*
23 *repay your balance, making only minimum pay-*
24 *ments, call this toll-free number: _____.’.*”

1 “(B) In the case of an open end credit plan that
2 requires a minimum monthly payment of more than
3 4 percent of the balance on which finance charges are
4 accruing, the following statement, in a prominent lo-
5 cation on the front of the billing statement, disclosed
6 clearly and conspicuously, in typeface no smaller
7 than the largest typeface used to make other clear and
8 conspicuous disclosures required under this sub-
9 section: ‘Minimum Payment Warning: Making only
10 the required minimum payment will increase the in-
11 terest you pay and the time it takes to repay your
12 balance. Making a typical 5% minimum monthly
13 payment on a balance of \$300 at an interest rate of
14 17% would take 24 months to repay the balance in
15 full. For an estimate of the time it would take to
16 repay your balance, making only minimum monthly
17 payments, call this toll-free number: _____.’.

18 “(C) Notwithstanding subparagraphs (A) and
19 (B), in the case of a creditor with respect to which
20 compliance with this title is enforced by the Federal
21 Trade Commission, the following statement, in a
22 prominent location on the front of the billing state-
23 ment, disclosed clearly and conspicuously, in typeface
24 no smaller than the largest typeface used to make
25 other clear and conspicuous disclosures under this

1 subsection: *‘Minimum Payment Warning: Making*
2 *only the required minimum payment will increase the*
3 *interest you pay and the time it takes to repay your*
4 *balance. For example, making only the typical 5%*
5 *minimum monthly payment on a balance of \$300 at*
6 *an interest rate of 17% would take 24 months to*
7 *repay the balance in full. For an estimate of the time*
8 *it would take to repay your balance, making only*
9 *minimum monthly payments, call the Federal Trade*
10 *Commission at this toll-free number: _____.’*
11 *A creditor who is subject to this subparagraph shall*
12 *not be subject to subparagraph (A) or (B).*

13 “(D) Notwithstanding subparagraph (A), (B), or
14 (C), in complying with any such subparagraph, a
15 creditor may substitute an example based on an in-
16 terest rate that is greater than 17 percent. Any cred-
17 itor who is subject to subparagraph (B) may elect to
18 provide the disclosure required under subparagraph
19 (A) in lieu of the disclosure required under subpara-
20 graph (B).

21 “(E) The Board shall, by rule, periodically recal-
22 culate, as necessary, the interest rate and repayment
23 period under subparagraphs (A), (B), and (C).

24 “(F) The toll-free telephone number disclosed by
25 a creditor or the Federal Trade Commission under

1 subparagraph (A), (B), or (G), as appropriate, may
2 be a toll-free telephone number established and main-
3 tained by the creditor or the Federal Trade Commis-
4 sion, as appropriate, or may be a toll-free telephone
5 number established and maintained by a third party
6 for use by the creditor or multiple creditors or the
7 Federal Trade Commission, as appropriate. The toll-
8 free telephone number may connect consumers to an
9 automated device through which consumers may ob-
10 tain information described in subparagraph (A), (B),
11 or (C), by inputting information using a touch-tone
12 telephone or similar device, if consumers whose tele-
13 phones are not equipped to use such automated device
14 are provided the opportunity to be connected to an in-
15 dividual from whom the information described in sub-
16 paragraph (A), (B), or (C), as applicable, may be ob-
17 tained. A person that receives a request for informa-
18 tion described in subparagraph (A), (B), or (C) from
19 an obligor through the toll-free telephone number dis-
20 closed under subparagraph (A), (B), or (C), as appli-
21 cable, shall disclose in response to such request only
22 the information set forth in the table promulgated by
23 the Board under subparagraph (H)(i).

24 “(G) The Federal Trade Commission shall estab-
25 lish and maintain a toll-free number for the purpose

1 of providing to consumers the information required to
2 be disclosed under subparagraph (C).

3 “(H) The Board shall—

4 “(i) establish a detailed table illustrating
5 the approximate number of months that it would
6 take to repay an outstanding balance if the con-
7 sumer pays only the required minimum monthly
8 payments and if no other advances are made,
9 which table shall clearly present standardized in-
10 formation to be used to disclose the information
11 required to be disclosed under subparagraph (A),
12 (B), or (C), as applicable;

13 “(ii) establish the table required under
14 clause (i) by assuming—

15 “(I) a significant number of different
16 annual percentage rates;

17 “(II) a significant number of different
18 account balances;

19 “(III) a significant number of different
20 minimum payment amounts; and

21 “(IV) that only minimum monthly
22 payments are made and no additional ex-
23 tensions of credit are obtained; and

24 “(iii) promulgate regulations that provide
25 instructional guidance regarding the manner in

1 *which the information contained in the table es-*
2 *tablished under clause (i) should be used in re-*
3 *sponding to the request of an obligor for any in-*
4 *formation required to be disclosed under sub-*
5 *paragraph (A), (B), or (C).*

6 “(I) *The disclosure requirements of this para-*
7 *graph do not apply to any charge card account, the*
8 *primary purpose of which is to require payment of*
9 *charges in full each month.*

10 “(J) *A creditor that maintains a toll-free tele-*
11 *phone number for the purpose of providing customers*
12 *with the actual number of months that it will take to*
13 *repay the consumer’s outstanding balance is not sub-*
14 *ject to the requirements of subparagraphs (A) and*
15 *(B).”.*

16 (b) *REGULATORY IMPLEMENTATION.—The Board of*
17 *Governors of the Federal Reserve System (hereafter in this*
18 *Act referred to as the “Board”) shall promulgate regulations*
19 *implementing the requirements of section 127(b)(11) of the*
20 *Truth in Lending Act, as added by subsection (a) of this*
21 *section. Section 127(b)(11) of the Truth in Lending Act,*
22 *as added by subsection (a) of this section, and the regula-*
23 *tions issued under this subsection shall not take effect until*
24 *the later of 18 months after the date of enactment of this*

1 *Act or 12 months after the publication of such regulations*
2 *by the Board.*

3 *(c) STUDY OF FINANCIAL DISCLOSURES.—*

4 *(1) IN GENERAL.—The Board may conduct a*
5 *study to determine whether consumers have adequate*
6 *information about borrowing activities that may re-*
7 *sult in financial problems.*

8 *(2) FACTORS FOR CONSIDERATION.—In con-*
9 *ducting a study under paragraph (1), the Board*
10 *should, in consultation with the other Federal bank-*
11 *ing agencies (as defined in section 3 of the Federal*
12 *Deposit Insurance Act), the National Credit Union*
13 *Administration, and the Federal Trade Commission,*
14 *consider the extent to which—*

15 *(A) consumers, in establishing new credit*
16 *arrangements, are aware of their existing pay-*
17 *ment obligations, the need to consider those obli-*
18 *gations in deciding to take on new credit, and*
19 *how taking on excessive credit can result in fi-*
20 *nancial difficulty;*

21 *(B) minimum periodic payment features of-*
22 *fered in connection with open end credit plans*
23 *impact consumer default rates;*

24 *(C) consumers make only the minimum*
25 *payment under open end credit plans;*

1 (D) consumers are aware that making only
2 minimum payments will increase the cost and
3 repayment period of an open end credit obliga-
4 tion; and

5 (E) the availability of low minimum pay-
6 ment options is a cause of consumers experi-
7 encing financial difficulty.

8 (3) *REPORT TO CONGRESS.*—Findings of the
9 Board in connection with any study conducted under
10 this subsection shall be submitted to Congress. Such
11 report shall also include recommendations for legisla-
12 tive initiatives, if any, of the Board, based on its
13 findings.

14 **SEC. 1902. ENHANCED DISCLOSURE FOR CREDIT EXTEN-**
15 **SIONS SECURED BY A DWELLING.**

16 (a) *OPEN END CREDIT EXTENSIONS.*—

17 (1) *CREDIT APPLICATIONS.*—Section 127A(a)(13)
18 of the Truth in Lending Act (15 U.S.C. 1637a(a)(13))
19 is amended—

20 (A) by striking “CONSULTATION OF TAX AD-
21 VISOR.—A statement that the” and inserting the
22 following: “TAX DEDUCTIBILITY.—A statement
23 that—

24 “(A) the”; and

1 (B) by striking the period at the end and
2 inserting the following: “; and

3 “(B) in any case in which the extension of
4 credit exceeds the fair market value (as defined
5 under the Federal Internal Revenue Code) of the
6 dwelling, the interest on the portion of the credit
7 extension that is greater than the fair market
8 value of the dwelling is not tax deductible for
9 Federal income tax purposes.”.

10 (2) CREDIT ADVERTISEMENTS.—Section 147(b)
11 of the Truth in Lending Act (15 U.S.C. 1665b(b)) is
12 amended—

13 (A) by striking “If any” and inserting the
14 following:

15 “(1) IN GENERAL.—If any”; and

16 (B) by adding at the end the following:

17 “(2) CREDIT IN EXCESS OF FAIR MARKET
18 VALUE.—Each advertisement described in subsection
19 (a) that relates to an extension of credit that may ex-
20 ceed the fair market value of the dwelling, and which
21 advertisement is disseminated in paper form to the
22 public or through the Internet, as opposed to by radio
23 or television, shall include a clear and conspicuous
24 statement that—

1 “(A) the interest on the portion of the credit
2 extension that is greater than the fair market
3 value of the dwelling is not tax deductible for
4 Federal income tax purposes; and

5 “(B) the consumer should consult a tax ad-
6 visor for further information regarding the de-
7 ductibility of interest and charges.”.

8 (b) *NON-OPEN END CREDIT EXTENSIONS.*—

9 (1) *CREDIT APPLICATIONS.*—Section 128 of the
10 *Truth in Lending Act (15 U.S.C. 1638)* is amended—

11 (A) in subsection (a), by adding at the end
12 the following:

13 “(15) In the case of a consumer credit trans-
14 action that is secured by the principal dwelling of the
15 consumer, in which the extension of credit may exceed
16 the fair market value of the dwelling, a clear and con-
17 spicuous statement that—

18 “(A) the interest on the portion of the credit
19 extension that is greater than the fair market
20 value of the dwelling is not tax deductible for
21 Federal income tax purposes; and

22 “(B) the consumer should consult a tax ad-
23 visor for further information regarding the de-
24 ductibility of interest and charges.”; and

1 (B) in subsection (b), by adding at the end
2 the following:

3 “(3) In the case of a credit transaction described in
4 paragraph (15) of subsection (a), disclosures required by
5 that paragraph shall be made to the consumer at the time
6 of application for such extension of credit.”.

7 (2) CREDIT ADVERTISEMENTS.—Section 144 of
8 the Truth in Lending Act (15 U.S.C. 1664) is amend-
9 ed by adding at the end the following:

10 “(e) Each advertisement to which this section applies
11 that relates to a consumer credit transaction that is secured
12 by the principal dwelling of a consumer in which the exten-
13 sion of credit may exceed the fair market value of the dwell-
14 ing, and which advertisement is disseminated in paper
15 form to the public or through the Internet, as opposed to
16 by radio or television, shall clearly and conspicuously state
17 that—

18 “(1) the interest on the portion of the credit ex-
19 tension that is greater than the fair market value of
20 the dwelling is not tax deductible for Federal income
21 tax purposes; and

22 “(2) the consumer should consult a tax advisor
23 for further information regarding the deductibility of
24 interest and charges.”.

1 (c) *REGULATORY IMPLEMENTATION.*—*The Board of*
2 *Governors of the Federal Reserve System (hereafter in this*
3 *title referred to as the “Board”)* shall promulgate regula-
4 *tions implementing the requirements of subsections (a) and*
5 *(b) of this section. Such regulations shall not take effect*
6 *until the later of 12 months after the date of enactment of*
7 *this Act or 12 months after the publication of such regula-*
8 *tions by the Board.*

9 **SEC. 1903. DISCLOSURES RELATED TO “INTRODUCTORY**
10 **RATES”.**

11 (a) *INTRODUCTORY RATE DISCLOSURES.*—*Section*
12 *127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is*
13 *amended by adding at the end the following:*

14 “(6) *ADDITIONAL NOTICE CONCERNING ‘INTRO-*
15 *DUCTORY RATES’.*—

16 “(A) *IN GENERAL.*—*Except as provided in*
17 *subparagraph (B), an application or solicitation*
18 *to open a credit card account and all pro-*
19 *motional materials accompanying such applica-*
20 *tion or solicitation, for which a disclosure is re-*
21 *quired under paragraph (1), and that offers a*
22 *temporary annual percentage rate of interest,*
23 *shall—*

24 “(i) *use the term ‘introductory’ in im-*
25 *mediate proximity to each listing of the*

1 *temporary annual percentage rate applica-*
2 *ble to such account, which term shall ap-*
3 *pear clearly and conspicuously;*

4 “(ii) *if the annual percentage rate of*
5 *interest that will apply after the end of the*
6 *temporary rate period will be a fixed rate,*
7 *state the following in a clear and con-*
8 *spicuous manner in a prominent location*
9 *closely proximate to the first listing of the*
10 *temporary annual percentage rate (other*
11 *than a listing of the temporary annual per-*
12 *centage rate in the tabular format described*
13 *in section 122(c)) or, if the first listing is*
14 *not the most prominent listing, then closely*
15 *proximate to the most prominent listing of*
16 *the temporary annual percentage rate, in*
17 *each document and in no smaller type size*
18 *than the smaller of the type size in which*
19 *the proximate temporary annual percentage*
20 *rate appears or a 12-point type size, the*
21 *time period in which the introductory pe-*
22 *riod will end and the annual percentage*
23 *rate that will apply after the end of the in-*
24 *troductory period; and*

1 “(iii) if the annual percentage rate
2 that will apply after the end of the tem-
3 porary rate period will vary in accordance
4 with an index, state the following in a clear
5 and conspicuous manner in a prominent lo-
6 cation closely proximate to the first listing
7 of the temporary annual percentage rate
8 (other than a listing in the tabular format
9 prescribed by section 122(c)) or, if the first
10 listing is not the most prominent listing,
11 then closely proximate to the most promi-
12 nent listing of the temporary annual per-
13 centage rate, in each document and in no
14 smaller type size than the smaller of the
15 type size in which the proximate temporary
16 annual percentage rate appears or a 12-
17 point type size, the time period in which the
18 introductory period will end and the rate
19 that will apply after that, based on an an-
20 nual percentage rate that was in effect with-
21 in 60 days before the date of mailing the
22 application or solicitation.

23 “(B) EXCEPTION.—Clauses (ii) and (iii) of
24 subparagraph (A) do not apply with respect to
25 any listing of a temporary annual percentage

1 *rate on an envelope or other enclosure in which*
2 *an application or solicitation to open a credit*
3 *card account is mailed.*

4 “(C) *CONDITIONS FOR INTRODUCTORY*
5 *RATES.—An application or solicitation to open a*
6 *credit card account for which a disclosure is re-*
7 *quired under paragraph (1), and that offers a*
8 *temporary annual percentage rate of interest*
9 *shall, if that rate of interest is revocable under*
10 *any circumstance or upon any event, clearly and*
11 *conspicuously disclose, in a prominent manner*
12 *on or with such application or solicitation—*

13 “(i) *a general description of the cir-*
14 *cumstances that may result in the revoca-*
15 *tion of the temporary annual percentage*
16 *rate; and*

17 “(ii) *if the annual percentage rate that*
18 *will apply upon the revocation of the tem-*
19 *porary annual percentage rate—*

20 “(I) *will be a fixed rate, the an-*
21 *nuual percentage rate that will apply*
22 *upon the revocation of the temporary*
23 *annual percentage rate; or*

24 “(II) *will vary in accordance with*
25 *an index, the rate that will apply after*

1 *the temporary rate, based on an an-*
2 *nual percentage rate that was in effect*
3 *within 60 days before the date of mail-*
4 *ing the application or solicitation.*

5 “(D) DEFINITIONS.—In this paragraph—

6 “(i) the terms ‘temporary annual per-

7 *centage rate of interest’ and ‘temporary an-*

8 *nual percentage rate’ mean any rate of in-*

9 *terest applicable to a credit card account for*

10 *an introductory period of less than 1 year,*

11 *if that rate is less than an annual percent-*

12 *age rate that was in effect within 60 days*

13 *before the date of mailing the application or*

14 *solicitation; and*

15 “(ii) the term ‘introductory period’

16 *means the maximum time period for which*

17 *the temporary annual percentage rate may*

18 *be applicable.*

19 “(E) RELATION TO OTHER DISCLOSURE RE-

20 *QUIREMENTS.—Nothing in this paragraph may*

21 *be construed to supersede subsection (a) of sec-*

22 *tion 122, or any disclosure required by para-*

23 *graph (1) or any other provision of this sub-*

24 *section.”.*

1 (b) *REGULATORY IMPLEMENTATION.*—*The Board of*
2 *Governors of the Federal Reserve System (hereafter in this*
3 *title referred to as the (“Board”)) shall promulgate regula-*
4 *tions implementing the requirements of section 127 of the*
5 *Truth in Lending Act, as amended by subsection (a) of this*
6 *section. Any provision set forth in subsection (a) and such*
7 *regulations shall not take effect until the later of 12 months*
8 *after the date of enactment of this Act or 12 months after*
9 *the publication of such regulations by the Board.*

10 **SEC. 1904. INTERNET-BASED CREDIT CARD SOLICITATIONS.**

11 (a) *INTERNET-BASED APPLICATIONS AND SOLICITA-*
12 *TIONS.*—*Section 127(c) of the Truth in Lending Act (15*
13 *U.S.C. 1637(c)) is amended by adding at the end the fol-*
14 *lowing:*

15 “(7) *INTERNET-BASED APPLICATIONS AND SO-*
16 *LICITATIONS.*—

17 “(A) *IN GENERAL.*—*In any solicitation to*
18 *open a credit card account for any person under*
19 *an open end consumer credit plan using the*
20 *Internet or other interactive computer service,*
21 *the person making the solicitation shall clearly*
22 *and conspicuously disclose—*

23 “(i) *the information described in sub-*
24 *paragraphs (A) and (B) of paragraph (1);*
25 *and*

1 “(i) the disclosures described in para-
2 graph (6).

3 “(B) *FORM OF DISCLOSURE.*—The disclo-
4 sures required by subparagraph (A) shall be—

5 “(i) readily accessible to consumers in
6 close proximity to the solicitation to open a
7 credit card account; and

8 “(ii) updated regularly to reflect the
9 current policies, terms, and fee amounts ap-
10 plicable to the credit card account.

11 “(C) *DEFINITIONS.*—For purposes of this
12 paragraph—

13 “(i) the term ‘Internet’ means the
14 international computer network of both
15 Federal and non-Federal interoperable
16 packet switched data networks; and

17 “(ii) the term ‘interactive computer
18 service’ means any information service, sys-
19 tem, or access software provider that pro-
20 vides or enables computer access by multiple
21 users to a computer server, including spe-
22 cifically a service or system that provides
23 access to the Internet and such systems op-
24 erated or services offered by libraries or edu-
25 cational institutions.”.

1 (b) *REGULATORY IMPLEMENTATION.*—*The Board of*
2 *Governors of the Federal Reserve System (hereafter in this*
3 *title referred to as the (“Board”)) shall promulgate regula-*
4 *tions implementing the requirements of section 127 of the*
5 *Truth in Lending Act, as amended by subsection (a) of this*
6 *section. Any provision set forth in subsection (a) and such*
7 *regulations shall not take effect until the later of 12 months*
8 *after the date of enactment of this Act or 12 months after*
9 *the publication of such regulations by the Board.*

10 **SEC. 1905. DISCLOSURES RELATED TO LATE PAYMENT**
11 **DEADLINES AND PENALTIES.**

12 (a) *DISCLOSURES RELATED TO LATE PAYMENT DEAD-*
13 *LINES AND PENALTIES.*—*Section 127(b) of the Truth in*
14 *Lending Act (15 U.S.C. 1637(b)) is amended by adding at*
15 *the end the following:*

16 “(12) *If a late payment fee is to be imposed due*
17 *to the failure of the obligor to make payment on or*
18 *before a required payment due date the following shall*
19 *be stated clearly and conspicuously on the billing*
20 *statement:*

21 “(A) *The date on which that payment is*
22 *due or, if different, the earliest date on which a*
23 *late payment fee may be charged.*

24 “(B) *The amount of the late payment fee to*
25 *be imposed if payment is made after such date.”.*

1 (b) *REGULATORY IMPLEMENTATION.*—*The Board of*
2 *Governors of the Federal Reserve System (hereafter in this*
3 *title referred to as the (“Board”)) shall promulgate regula-*
4 *tions implementing the requirements of section 127 of the*
5 *Truth in Lending Act, as amended by subsection (a) of this*
6 *section. Any provision set forth in subsection (a) and such*
7 *regulations shall not take effect until the later of 12 months*
8 *after the date of enactment of this Act or 12 months after*
9 *the publication of such regulations by the Board.*

10 **SEC. 1906. PROHIBITION ON CERTAIN ACTIONS FOR FAIL-**
11 **URE TO INCUR FINANCE CHARGES.**

12 (a) *PROHIBITION ON CERTAIN ACTIONS FOR FAILURE*
13 *TO INCUR FINANCE CHARGES.*—*Section 127 of the Truth*
14 *in Lending Act (15 U.S.C. 1637) is amended by adding*
15 *at the end the following:*

16 “(h) *PROHIBITION ON CERTAIN ACTIONS FOR FAILURE*
17 *TO INCUR FINANCE CHARGES.*—*A creditor of an account*
18 *under an open end consumer credit plan may not terminate*
19 *an account prior to its expiration date solely because the*
20 *consumer has not incurred finance charges on the account.*
21 *Nothing in this subsection shall prohibit a creditor from*
22 *terminating an account for inactivity in 3 or more consecu-*
23 *tive months.”.*

24 (b) *REGULATORY IMPLEMENTATION.*—*The Board of*
25 *Governors of the Federal Reserve System (hereafter in this*

1 *title referred to as the (“Board”) shall promulgate regula-*
2 *tions implementing the requirements of section 127 of the*
3 *Truth in Lending Act, as amended by subsection (a) of this*
4 *section. Any provision set forth in subsection (a) and such*
5 *regulations shall not take effect until the later of 12 months*
6 *after the date of enactment of this Act or 12 months after*
7 *the publication of such regulations by the Board.*

8 **SEC. 1907. DUAL USE DEBIT CARD.**

9 (a) *REPORT.*—*The Board may conduct a study of, and*
10 *present to Congress a report containing its analysis of, con-*
11 *sumer protections under existing law to limit the liability*
12 *of consumers for unauthorized use of a debit card or similar*
13 *access device. Such report, if submitted, shall include rec-*
14 *ommendations for legislative initiatives, if any, of the*
15 *Board, based on its findings.*

16 (b) *CONSIDERATIONS.*—*In preparing a report under*
17 *subsection (a), the Board may include—*

18 (1) *the extent to which section 909 of the Elec-*
19 *tronic Fund Transfer Act (15 U.S.C. 1693g), as in ef-*
20 *fect at the time of the report, and the implementing*
21 *regulations promulgated by the Board to carry out*
22 *that section provide adequate unauthorized use liabil-*
23 *ity protection for consumers;*

24 (2) *the extent to which any voluntary industry*
25 *rules have enhanced or may enhance the level of pro-*

1 *tection afforded consumers in connection with such*
2 *unauthorized use liability; and*

3 *(3) whether amendments to the Electronic Fund*
4 *Transfer Act (15 U.S.C. 1693 et seq.), or revisions to*
5 *regulations promulgated by the Board to carry out*
6 *that Act, are necessary to further address adequate*
7 *protection for consumers concerning unauthorized use*
8 *liability.*

9 **SEC. 1908. STUDY OF BANKRUPTCY IMPACT OF CREDIT EX-**
10 **TENDED TO DEPENDENT STUDENTS.**

11 *(a) STUDY.—*

12 *(1) IN GENERAL.—The Comptroller General of*
13 *the United States shall conduct a study regarding the*
14 *impact that the extension of credit described in para-*
15 *graph (2) has on the rate of bankruptcy cases filed*
16 *under title 11, United States Code.*

17 *(2) EXTENSION OF CREDIT.—The extension of*
18 *credit referred to in paragraph (1) is the extension of*
19 *credit to individuals who are—*

20 *(A) claimed as dependents for purposes of*
21 *the Internal Revenue Code of 1986; and*

22 *(B) enrolled in postsecondary educational*
23 *institutions.*

24 *(b) REPORT.—Not later than 1 year after the date of*
25 *enactment of this Act, the Comptroller General of the United*

- 1 *States shall submit to the Senate and the House of Rep-*
- 2 *resentatives a report summarizing the results of the study*
- 3 *conducted under subsection (a).*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 833

AMENDMENT

HR 833 EAS—2

HR 833 EAS—3

HR 833 EAS—4

HR 833 EAS—5

HR 833 EAS—6

HR 833 EAS—7

HR 833 EAS—8

HR 833 EAS—9

HR 833 EAS—10

HR 833 EAS—11

HR 833 EAS—12

HR 833 EAS—13

HR 833 EAS—14

HR 833 EAS—15

HR 833 EAS—16

HR 833 EAS—17

HR 833 EAS—18

HR 833 EAS—19

HR 833 EAS—20

HR 833 EAS—21

HR 833 EAS—22

HR 833 EAS—23

HR 833 EAS—24

HR 833 EAS—25

HR 833 EAS—26

HR 833 EAS—27

HR 833 EAS—28

HR 833 EAS—29

HR 833 EAS—30

HR 833 EAS—31

HR 833 EAS—32

HR 833 EAS—33

HR 833 EAS—34

HR 833 EAS—35

HR 833 EAS—36

HR 833 EAS—37

HR 833 EAS—38

HR 833 EAS—39

HR 833 EAS—40