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House of Representatives

The House met at 10 a.m.

The Reverend Willie Davis, Pastor, Second Baptist Church, Las Vegas, Nevada, offered the following prayer:

God, whose aggression is born of love and whose aim is peace, God of revelation and inspiration, from Your Holy Word come instructions about the necessity of vision and statements of encouragement for the entertainment of vision. Help us, O God.

Our world needs a new vision of sovereignty. We need negotiations more than confrontation, cooperation more than conflict, peace rather than war. Help us, Lord.

Our world needs a new vision of freedom. We need no political hostages; free them, Lord. We need no slaves of prejudice; free them Lord. No bond servants of poverty; free them, Lord. No captives of hunger; free them, Lord. No servants of sin; free them, Lord.

Our world needs a new vision of Your redemption. Save us, Lord. Enable us to call on Your name in repentance, to open our hearts to You in commitment, and to bow our knees to You in obedience.

Our prayer is offered in the Name of the One who gives clear visibility and spiritual reality. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES of Ohio led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 40. Concurrent resolution permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 628. An act to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

The message also announced that pursuant to sections 267h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Connecticut (Mr. DODD) as Vice Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

WELCOMING REVEREND WILLIE DAVIS

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

Ms. BERKLEY. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Reverend Willie Davis from the Second Baptist Church in Las Vegas, Nevada. Pastor Davis has served the Second Baptist Church of Las Vegas since 1978.

Under Reverend Davis's leadership, the membership at Second Baptist Church has more than doubled and the church has improved and expanded services offered to the community. Given the unique work schedules of the residents of Las Vegas, Second Baptist was the first African American congregation to begin an early morning worship service, as well as a live broadcast. It has expanded its facilities to incorporate a new sanctuary with seating for 2,000 people, new classrooms, a small chapel, a pastor's study, and administrative offices. From a tent in the desert, Second Baptist has bloomed into the miracle on Madison Avenue.

The glory of Second Baptist's transformation is reflected in the church's awards-winning choir which will be performing at noon today in HC–8 of the Capitol building, as well as other locations.

It gives me great pride and pleasure that they are here, and it is very fitting that as long as Reverend Davis is here in our Nation's Capitol, along with the choir from Second Baptist, that he give the morning prayer.

PRESIDENTIAL REPORT PURSUANT TO USE OF FORCE RESOLUTION

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. HASTERT. Mr. Speaker, and for the information of all Members, I am in receipt of a report from the President pursuant to the Use of Force Resolution approved by the Congress last year.

This report summarizes diplomatic and other peaceful means pursued by the United States, cooperating with foreign countries and international organizations to obtain Iraqi compliance with all relevant United Nations Security Council resolutions regarding Iraq.

Pursuant to House Rule XII, I will refer this report to the Committee on

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International Relations. In addition, for the information of the Members, I will submit the document in its entirety for printing into the CONGRESSIONAL RECORD.

Let me remind Members that this document is pursuant to legislation and the statute that we passed last year. This is not a declaration that we are in any specific type of activity at this time. It only is the pursuit of the statute that was passed last year.

Any further announcement will be shared with the Congress.

THE WHITE HOUSE,
Washington, March 18, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), and based on information available to me, including that in the enclosed document, I determine that:

(1) reliance by the United States on further diplomatic and other peaceful means alone will neither (A) adequately protect the national security of the United States against the continuing threat posed by Iraq nor (B) likely lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to the Constitution and Public Law 107–243 is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.

Sincerely,

GEORGE W. BUSH.

REPORT IN CONNECTION WITH PRESIDENTIAL DETERMINATION UNDER PUBLIC LAW 107–243

This report summarizes diplomatic and other peaceful means pursued by the United States, working for more than a dozen years with cooperating foreign countries and international organizations such as the United Nations, in an intensive effort (1) to protect the national security of the United States, as well as the security of other countries, against the continuing threat posed by Iraqi development and use of weapons of mass destruction, and (2) to obtain Iraqi compliance with all relevant United Nations Security Council (UNSC) resolutions regarding Iraq. Because of the intransigence and defiance of the Iraqi regime, further continuation of these efforts will neither adequately protect the national security of the United States against the continuing threat posed by Iraq nor likely lead to enforcement of all relevant UNSC resolutions regarding Iraq.

This report also explains that a determination to use force against Iraq is fully consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. Indeed, as Congress found when it passed the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), Iraq continues to harbor and aid international terrorists and terrorist organizations, including organizations that threaten the safety of United States citizens. The use of military force to remove the Iraqi regime is therefore not only consistent with, but is a vital part of, the international war on terrorism.

This document is summary in form rather than a comprehensive and definitive rendition of actions taken and related factual data that would constitute a complete historical record. This document should be considered in light of the information that has been, and will be, furnished to Congress, including the periodic reports consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243).

1. THE GULF WAR AND CONDITIONS OF THE CEASE-FIRE

On August 2, 1990, President Saddam Hussein of Iraq initiated the brutal and unprovoked invasion and occupation of Kuwait. The United States and many foreign governments, working together and through the UN, sought by diplomatic and other peaceful means to compel Iraq to withdraw from Kuwait and to establish international peace and security in the region.

President George H.W. Bush's letter transmitted to Congress on January 16, 1991, was accompanied by a report that catalogued the extensive diplomatic, economic, and other peaceful means pursued by the United States to achieve U.S. and UNSC objectives. It details adoption by the UNSC of a dozen resolutions, from Resolution 660 of August 2, 1990, demanding that Iraq withdraw from Kuwait, to Resolution 678 on November 29, 1990, authorizing member states to use all necessary means to ''implement Resolution 660,'' to implement ''all subsequent relevant resolutions,'' and ''to restore international peace and security in the area.''

Despite extraordinary and concerted efforts by the United States, other countries, and international organizations through diplomacy, multilateral economic sanctions, and other peaceful means to bring about Iraqi compliance with UNSC resolutions, and even after the UN and the United States explicitly informed Iraq that its failure to comply with UNSC resolutions would result in the use of armed force to eject Iraqi forces from Kuwait, Saddam Hussein's regime remained intransigent. The President ordered the U.S. armed forces, working in a coalition with the armed forces of other cooperating countries, to liberate Kuwait. The coalition forces promptly drove Iraqi forces out of Kuwait, set Kuwait free, and moved into southern Iraq.

On April 3, 1991, the UNSC adopted Resolution 687, which established conditions for a cease-fire to suspend hostilities. Among other requirements, UNSCR 687 required Iraq to (1) destroy its chemical and biological weapons and ballistic missiles with ranges greater than 150 km; (2) not use, develop, construct, or acquire biological, chemical, or nuclear weapons and their delivery systems; (3) submit to international inspections to verify compliance; and (4) not commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. On April 6, 1991, Iraq communicated to the UNSC its acceptance of the conditions for the cease-fire.

2. IRAQ'S BREACH OF THE CEASE-FIRE CONDITIONS: THREATS TO PEACE AND SECURITY

Since almost the moment it agreed to the conditions of the cease-fire, Iraq has committed repeated and escalating breaches of those conditions. Throughout the first seven years that Iraq accepted inspections, it repeatedly obstructed access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). On two occasions, in 1993 and 1998, Iraq's refusal to comply with its international obligations under the cease-fire led military action by coalition forces. In 1998, under threat of ''severest consequences,'' Iraq signed a Memorandum of Understanding pledging full cooperation with UNSCOM and IAEA and ''immediate, unconditional and unrestricted'' access for their inspections. In a matter of months, however, the Iraqi regime suspended cooperation, in part as an effort to condition compliance on the lifting of oil sanctions; it ultimately ceased all cooperation, causing the inspectors to leave the country.

On December 17, 1999, after a year with no inspections in Iraq, the UNSC established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) as a successor to UNSCOM, to address unresolved disarmament issues and verify Iraqi compliance with the disarmament required by UNSCR 687 and related resolutions. Iraq refused to allow inspectors to return for yet another three years.

3. RECENT DIPLOMATIC AND OTHER PEACEFUL MEANS REJECTED BY IRAQ

On September 12, 2002, the President addressed the United Nations General Assembly on Iraq. He challenged the United Nations to act decisively to deal with Iraq's systematic twelve-year defiance and to compel Iraq's disarmament of the weapons of mass destruction and delivery systems that continue to threaten international peace and security. The White House background paper, ''A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations'' (September 12, 2002), summarizes Iraq's actions as of the time the President initiated intensified efforts to enforce all relevant UN Resolutions and demonstrates the failure of diplomacy to affect Iraq's conduct: ''For more than a decade, Saddam Hussein has deceived and defied the will and resolutions of the United Nations Security Council by, among other things: continuing to seek and develop chemical, biological, and nuclear weapons, and prohibited long-range missiles; brutalizing the Iraqi people, including committing gross human rights violations and crimes against humanity; supporting international terrorism; refusing to release or account for prisoners of war and other missing individuals from the Gulf War era; refusing to return stolen Kuwaiti property; and working to circumvent the UN's economic sanctions.''

The President also summarized Iraq's response to a decade of diplomatic efforts and its breach of the cease-fire conditions on October 7, 2002, in an address in Cincinnati, Ohio: ''Eleven years ago, as a condition for ending the Persian Gulf War, the Iraqi regime was required to destroy its weapons of mass destruction, to cease all development of such weapons, and to stop all support for terrorist groups. The Iraqi regime has violated all of those obligations. It possesses and produces chemical and biological weapons. It is seeking nuclear weapons. It has given shelter and support to terrorism, and practices terror against its own people. The entire world has witnessed Iraq's eleven-year history of defiance, deception and bad faith.''

In response to the President's challenge of September 12, 2002, and after intensive negotiation and diplomacy, the UNSC unanimously adopted UNSCR 1441 on November 8, 2002. The UNSC declared that Iraq ''has been and remains in material breach'' of its disarmament obligations, but chose to afford Iraq one ''final opportunity'' to comply. The UNSC again placed the burden on Iraq to comply and disarm and not on the inspectors to try to find what Iraq is concealing. The UNSC made clear that any false statements or omissions in declarations and any failure by Iraq to comply with UNSCR 1441 would constitute a further material breach of Iraq's obligations. Rather than seizing this final

opportunity for a peaceful solution by giving full and immediate cooperation, the Hussein regime responded with renewed defiance and deception.

For example, while UNSCR 1441 required that Iraq provide a ''currently accurate, full and complete'' declaration of all aspects of its weapons of mass destruction (''WMD'') and delivery programs, Iraq's Declaration of December 7, 2002, failed to comply with that requirement. The 12,000-page document that Iraq provided was little more than a restatement of old and discredited material. It was incomplete, inaccurate, and composed mostly of recycled information that failed to address any of the outstanding disarmament questions inspectors had previously identified.

In addition, since the passage of UNSCR 1441, Iraq has failed to cooperate fully with inspectors. It delayed until two-and-a-half months after the resumption of inspections UNMOVIC's use of aerial surveillance flights; failed to provide private access to officials for interview by inspectors; intimidated witnesses with threats; undertook massive efforts to deceive and defeat inspectors, including cleanup and transshipment activities at nearly 30 sites; failed to provide numerous documents requested by UNMOVIC; repeatedly provided incomplete or outdated listings of its WMD personnel; and hid documents in homes, including over 2000 pages of Iraqi documents regarding past uranium enrichment programs. In a report dated March 6, 2003, UNMOVIC described over 600 instances in which Iraq had failed to declare fully activities related to its chemical, biological, or missile procurements.

Dr. Hans Blix, Executive Chairman of UNMOVIC, reported to the UNSC on January 27, 2003 that ''Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it.'' Dr. Mohamed El Baradei, Director General of the IAEA, reported that Iraq's declaration of December 7 ''did not provide any new information relevant to certain questions that have been outstanding since 1998.'' Both demonstrated that there was no evidence that Iraq had decided to comply with disarmament obligations. Diplomatic efforts have not affected Iraq's conduct positively. Any temporary changes in Iraq's approach that have occurred over the years have been in response to the threat of use of force.

On February 5, 2003, the Secretary of State delivered a comprehensive presentation to the UNSC using declassified information, including human intelligence reports, communications intercepts and overhead imagery, which demonstrated Iraq's ongoing efforts to pursue WMD programs and conceal them from UN inspectors. The Secretary of State updated that presentation one month later by detailing intelligence reports on continuing efforts by Iraq to maintain and conceal proscribed materials.

Despite the continued resistance by Iraq, the United States has continued to use diplomatic and other peaceful means to achieve complete and total disarmament that would adequately protect the national security of the United States from the threat posed by Iraq and which is required by all relevant UNSC resolutions. On March 7, 2003, the United States, United Kingdom, and Spain presented a draft resolution that would have established for Iraq a March 17 deadline to cooperate fully with disarmament demands. Since the adoption of UNSCR 1441 in November 2002, there have been numerous calls and meetings by President Bush and the Secretary of State with other world leaders to try to find a diplomatic or other peaceful way to disarm Iraq. On March 13, 2003, the U.S. Ambassador to the UN asked for members of the UNSC to consider seriously a British proposal to establish six benchmarks that would be used to measure whether or not the regime in Iraq is coming into full, immediate, and unconditional compliance with the pertinent UN resolutions. On March 16, 2003, the President traveled to the Azores to meet with Portuguese Prime Minister Jose Manuel Durao Barroso, British Prime Minister Tony Blair, and Spanish Prime Minister Jose Maria Aznar to assess the situation and confirm that diplomatic and other peaceful means have been attempted to achieve Iraqi compliance with all relevant UNSC resolutions. Despite these diplomatic and peaceful efforts, Iraq remains in breach of relevant UNSC resolutions and a threat to the United States and other countries. Further diplomatic efforts were suspended reluctantly after, as the President observed on March 17, ''some permanent members of the Security Council ha[d] publicly announced they will veto any resolution that compels the disarmament of Iraq.''

The lesson learned after twelve years of Iraqi defiance is that the appearance of progress on process is meaningless—what is necessary is immediate, active, and unconditional cooperation in the complete disarmament of Iraq's prohibited weapons. As a result of its repeated failure to cooperate with efforts aimed at actual disarmament, Iraq has retained weapons of mass destruction that it agreed, as an essential condition of the cease-fire in 1991, not to develop or possess. The Secretary of State's February 5, 2003, presentation cited examples, such as Iraq's biological weapons based on anthrax and botulinum toxin, chemical weapons based on mustard and nerve agents, proscribed missiles and unmanned aerial vehicles to deliver weapons of mass destruction, and mobile biological weapons factories. The Secretary of State also discussed with the Security Council Saddam Hussein's efforts to reconstitute Iraq's nuclear weapons program.

The dangers posed by Iraq's weapons of mass destruction and long-range missiles are clear. Saddam Hussein has already used such weapons, repeatedly. He used them against Iranian troops in the 1980s. He used ballistic missiles against civilians during the Gulf War, firing Scud missiles into Israel and Saudi Arabia. He used chemical weapons against the Iraqi people in Northern Iraq. As Congress stated in 1998 in Public Law 105–235, ''Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security.'' Congress concluded in Public Law 105–338 that ''[i]t should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.''

In addition, Congress stated in the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), that: ''Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations.''

Nothing that has occurred in the past twelve years, the past twelve months, the past twelve weeks, or the past twelve days provides any basis for concluding that further diplomatic or other peaceful means will adequately protect the national security of the United States from the continuing threat posed by Iraq or are likely to lead to enforcement of all relevant UNSC resolutions regarding Iraq and the restoration of peace and security in the area.

As the President stated on March 17, ''[t]he Iraqi regime has used diplomacy as a ploy to gain time and advantage.'' Further delay in taking action against Iraq will only serve to give Saddam Hussein's regime additional time to further develop WMD to use against the United States, its citizens, and its allies. The United States and the UN have long demanded immediate, active, and unconditional cooperation by Iraq in the disarmament of its weapons of mass destruction. There is no reason to believe that Iraq will disarm, and cooperate with inspections to verify such disarmament, if the U.S. and the UN employ only diplomacy and other peaceful means.

4. USE OF FORCE AGAINST IRAQ IS CONSISTENT WITH THE WAR ON TERROR

In Public Law 107–243, Congress made a number of findings concerning Iraq's support for international terrorism. Among other things, Congress determined that:

Members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq.

Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens.

It is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary.

In addition, the Secretary of State's address to the UN on February 5, 2003 revealed a terrorist training area in northeastern Iraq with ties to Iraqi intelligence and activities of al Qaida affiliates in Baghdad. Public reports indicate that Iraq is currently harboring senior members of a terrorist network led by Abu Musab al-Zarqawi, a close al Qaida associate. In addition, Iraq has provided training in document forgery and explosives to al Qaida. Other terrorist groups have been supported by Iraq over past years.

Iraq has a long history of supporting terrorism, and continues to be a safe haven, transit point, and operational node for groups and individuals who direct violence against the United States and our allies. These actions violate Iraq's obligations under the UNSCR 687 cease-fire not to commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. Iraq has also failed to comply with its cease-fire obligations to disarm and submit to international inspections to verify compliance. In light of these Iraqi activities, the use of force by the United States and other countries against the current Iraqi regime is fully consistent with—indeed, it is an integral part of—the war against international terrorists and terrorist organizations.

Both because Iraq harbors terrorists and because Iraq could share weapons of mass destruction with terrorists who seek them for use against the United States, the use of force to bring Iraq into compliance with its obligations under UNSC resolutions would be a significant contribution to the war on terrorists of global reach. A change in the current Iraqi regime would eliminate an important source of support for international terrorist activities. It would likely also assist efforts to disrupt terrorist networks and capture terrorists around the globe. United States Government personnel operating in Iraq may discover information through Iraqi government documents and interviews with

detained Iraqi officials that would identify individuals currently in the United States and abroad who are linked to terrorist organizations.

The use of force against Iraq will directly advance the war on terror, and will be consistent with continuing efforts against international terrorists residing and operating elsewhere in the world. The U.S. armed forces remain engaged in key areas around the world in the prosecution of the war on terrorism. The necessary preparations for and conduct of military operations in Iraq have not diminished the resolve, capability, or activities of the United States to pursue international terrorists to protect our homeland. Nor with the use of military force against Iraq distract civilian departments and agencies of the United States Government from continuing aggressive efforts in combating terrorism, or divert resources from the overall world-wide counter-terrorism effort. Current counter-terrorism investigations and activities will continue during any military conflict, and winning the war on terrorism will remain the top priority for our Government.

Indeed, the United States has made significant progress on other fronts in the war on terror even while Iraq and its threat to the United States and other countries have been a focus of concern. Since November 2002, when deployments of forces to the Gulf were substantially increased, the United States, in cooperation with our allies, has arrested or captured several terrorists and frustrated several terrorist plots. For example, on March 1, 2003, Khalid Shaikh Mohammed was captured in Rawalpindi, Pakistan by Pakistani authorities, with U.S. cooperation. The capture of Sheikh Mohammed, the al Qaida ''mastermind'' of the September 11th attacks and Osama Bin Laden's senior terrorist attack planner, is a severe blow to al Qaida that will destabilize the terrorist network worldwide. This and other successes make clear that the United States Government remains focused on the war on terror, and that use of force in Iraq is fully consistent with continuing to take necessary actions against terrorists and terrorist organizations.

5. CONCLUSION

In the circumstances described above, the President of the United States has the authority—indeed, given the dangers involved, the duty—to use force against Iraq to protect the security of the American people and to compel compliance with UNSC resolutions.

The President has full authority to use the armed forces in Iraq under the U.S. Constitution, including his authority as Commander in Chief of the U.S. armed forces. This authority is supported by explicit statutory authorizations contained in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243).

In addition, U.S. action is consistent with the UN Charter. The UNSC, acting under Chapter VII of the UN Charter, provided that member states, including the United States, have the right to use force in Iraq to maintain or restore international peace and security. The Council authorized the use of force in UNSCR 678 with respect to Iraq in 1990. This resolution—on which the United States has relied continuously and with the full knowledge of the UNSC to use force in 1993, 1996, and 1998 and to enforce the no-fly zones—remains in effect today. In UNSCR 1441, the UNSC unanimously decided again that Iraq has been and remains in material breach of its obligations under relevant resolutions and would face serious consequences if it failed immediately to disarm. And, of course, based on existing facts, including the nature and type of the threat posed by Iraq, the United States may always proceed in the exercise of its inherent right of self defense, recognized in Article 51 of the UN Charter.

Accordingly, the United States has clear authority to use military force against Iraq to assure its national security and to compel Iraq's compliance with applicable UNSC resolutions.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). The Chair will now entertain 10 one-minute addresses to the House from each side of the Chamber.

SUPPORT OUR PRESIDENT AND OUR TROOPS

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, all eyes are on Iraq. Saddam has failed to provide credible evidence to back his bogus claims that he completely disarmed.

Saddam will not tell us about his 26,000 liters of anthrax; 38,000 liters of dangerous toxins; or 500 tons of sarin gas, mustard gas and VX nerve agents. Enough to kill millions of people.

Saddam repeatedly declares he does not have any chemical or biological weapons. Yet he just released them to his men for use against our troops. And he has not disclosed his mobile biological weapons labs or more than 30,000 munitions, including missiles capable of delivering chemical agents.

President Bush said, ''Responding to enemies only after they have struck first is not self-defense. It is suicide.''

I urge America and this Congress to support our President and our troops. This war is for our freedom and the freedom of the world.

HONORING SUNIL AGHI

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to remember and honor my good friend, Mr. Sunil Aghi, or Sunny, as he was known by most people.

I first met Sunny when I received a phone call one morning during my first campaign for Congress. Sunny introduced himself. He said that he was Indian; and since my campaign was a campaign of the people, he wanted to get his people, the Indian community, to come and help me win.

When he said Indian, I thought he meant headdress and Native American; but what he meant was the Indo-American community, those who were from India.

Sunny had such energy. He was a leading Indo-American in the political arena. He was a one-man show, putting together fund-raisers, hosting dozens of Congresspeople and Senators, spreading the message of democracy. He believed in democracy and teaching many of us about India, the world's largest democracy.

Sunny passed away last week, survived by his wife, Dimple, and his three young children. And he was young. But as someone said, he managed to wrap many of us here in the Congress and at other State and local levels, people who represent people, he managed to wrap us as a sari does, in his Indianness. Thank you, Sunny, for your life and the life you gave to others.

PASS BANKRUPTCY REFORM

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

Mr. PITTS. Mr. Speaker, our bankruptcy laws are in desperate need of reform. That is why I am a co-sponsor of H.R. 975, the Bankruptcy Reform Bill, up for a vote today.

Last year we had some problems with a similar bill. An unrelated provision was inserted into that bill last year during the conference committee and that provision had nothing to do with protecting consumers or preventing bankruptcy abuse. Instead, it would have sent the right to peaceful protests into bankruptcy. Thanks to the efforts of the gentleman from Wisconsin (Chairman SENSENBRENNER), I am pleased that this year we have a clean bill to consider once again.

I commend the chairman for his tireless efforts to reform our bankruptcy laws, and I urge our colleagues to support this bill to reform the bankruptcy system.

UNDERSTANDING OUR RIGHTS

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

Mrs. JONES of Ohio. Mr. Speaker, I was pleased to have the opportunity to lead this Congress this morning in the Pledge of Allegiance. And it is a great opportunity for me because as those of us who speak out against the war in Iraq, many times our support for the Nation and support for the Presidency and support for the military are called into question.

On Saturday I had the opportunity to participate in a peace rally at Public Square in the city of Cleveland, and I talked about patriotism and I talked about all those teachers in my high school and college years who said to me, understand the Bill of Rights. Understand you have the right to protest. Understand you have the right to assemble, and understand you have a right to free speech.

□ 1015

My free speech allows me to say to the entire world, to the troops all over

this country and all over the world that I support them. I am patriotic. To the whole world I still like peace, I want peace, and I am opposed to the war in Iraq, but I am a great American and I am a patriot.

I thank the Chair for the opportunity to be heard, Mr. Speaker.

LIBERTY WILL PREVAIL

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

Mr. PENCE. Mr. Speaker, today is a solemn day. History awaits America tonight, and while I would never question the patriotism of anyone who would challenge the wisdom of U.S. policy exercising their first amendment rights on this floor or in this Nation, I will challenge the wisdom of those who say that we are come upon this moment because of diplomatic failure, that we have come upon this moment because of a failure on the part of the President to lead the world toward consensus.

Let us be clear, Mr. Speaker, the President did not fail. Diplomacy did not fail. The United Nations failed in abdicating its historic role, minted in the aftermath of the Second World War, to be a bulwark against tyranny in the world. The United Nations failed, but as the world awaits our leadership and that of 30 other nations in the coalition of the willing, let us be clear, Mr. Speaker. The United Nations failed, but liberty will prevail.

EXPRESSING CONCERN OVER HARASSMENT OF SIKH YOUTH

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

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in concern about a troubling issue. Young Sikh boys are suffering from physical abuse, harassment and verbal taunting in some American schools. This is due to a lack of knowledge of the Sikh faith.

Sikhism is the world's fifth largest religion and has existed in India for more than five centuries. Many Sikhs in India play important roles in both the State and Federal Governments, and Sikhs are an integral part of the Indian American community in this country.

As part of their faith, Sikh men leave their hair uncut and wear turbans. Students see images of the Taliban and mistake Sikh youth for extremists. As a result, many Sikh boys have been harassed. As the Republican cochair of the India Caucus, I ask school administrators to work with members of the Sikh community to educate all young people about the importance of respecting other people's faith. No child should ever fear for their physical safety inside an American school.

In conclusion, may God bless our troops.

CONSUMER BANKRUPTCY FILINGS IN AMERICA

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

Mrs. MILLER of Michigan. Mr. Speaker, since 1980 consumer bankruptcy filings in America have absolutely quadrupled. Think about that. They have quadrupled, and why is that? Because bankruptcy used to be a term that made people shudder in their boots. Nobody wanted that black mark on their record. No one wanted that stigma. But today too many individuals think that filing for bankruptcy will erase their debt with little or no consequence, and it is high time for Americans to take financial responsibility for the debts that they have acquired.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 holds people accountable for their personal spending habits. If a person has debts and dissolves under Chapter 7, but have sufficient funds to pay off their debt, then clearly they should be required to pay it off, not to have their debt whisked painlessly away by just filing bankruptcy.

In my opinion, the Federal Government should not be in the business of bailing people out of their debt. We should instead be encouraging people to spend within their means and make logical and responsible financial choices, and this bill does just that.

This bill is about being held accountable, and it comes at just the right time. This is common-sense legislation. Bankruptcy abuse needs to stop, and this legislation is a step in the right direction.

CONGRESS NEEDS TO CLOSE RANKS

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

Mr. HUNTER. Mr. Speaker, our troops are well-equipped, well-trained and well-led. They are well-led all the way from their noncommissioned officers and officers at the small unit and company and battalion and brigade and division level all the way up to their leader at the top, the Commander in Chief of America's Armed Forces, President George Bush.

They have everything they need for victory except for one ingredient, Mr. Speaker. They need a Congress which quits berating their President, who is their leader, and their mission and closes ranks behind that mission and our President for victory.

RECREATIONAL MARINE EMPLOYMENT ACT

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

Mr. KELLER. Mr. Speaker, I rise today in support of the Recreational Marine Employment Act, which I recently introduced with broad bipartisan support. Through enactment of this legislation, the recreational marine industry will be able to create thousands of new jobs by ensuring that marinas, boat builders and recreational boaters will not have to pay the unnecessary and exorbitant insurance premiums under the Longshore and Harbor Workers Compensation Act.

Congress never intended that recreational marine jobs be covered under the Longshore Act, which applies to commercial ships, not recreational boats, since individuals who work in the recreational marine industry are already covered under State worker's compensation laws. This legislation will simply clarify that the recreational marine industry is exempt from the Longshore Act.

A recent survey indicated that employers in the recreational marine industry would save an average of $99,000 a year if this legislation passes, and 95 percent of those employers would use the savings to create additional jobs.

This bill would provide the common-sense clarification needed under the Longshore Act. I urge my colleagues to call my office today and sign on as a cosponsor of H.R. 1329.

WAR ON IRAQ AND YOUNG CONSTITUENTS

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

Mr. FARR. Mr. Speaker, through all the debate over attacking Iraq, it is important to remember how the threat of the United States attack on Iraq affects our youngest constituents.

Here is a letter that I just received from one such concerned constituent in my district, 7-year-old Nathaniel Smith from Capitola, California.

Dear Congressman Farr, My name is Nathaniel and I am 7 years old. I just want to say that I do not think the war is a very good idea. War is not a good way to solve problems, and it is a bad thing to happen in the world. It might destroy other people's property like houses and schools. People that are not in the war can die because soldiers might miss.

War is dangerous for nature. The money for war can go to schools. My school, Capitola Elementary, might close because my school does not have enough money. Please do not have a war.

Sincerely, Nathaniel Smith.

This youthful expression of concern eloquently captures the sentiment of so many Americans, young and old.

I would like to add my voice to that of Nathaniel Smith in urging the Commander in Chief who ordered this war to cancel it.

CONSTITUTION AND WAR IN IRAQ

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a very solemn time for this Nation. It is a solemn time for American families whose young men and women are facing danger in faraway shores. I think it is also a time when we grab hold of a document that has given us comfort for so many centuries, and that is the Constitution, and Mr. Speaker, I believe the Constitution demands that this Congress address the question of going to war with Iraq.

It is delineated in the Constitution that the Congress is the institution to declare war, and so I think it is appropriate, Mr. Speaker, for the President to come to this Congress, similarly as was done in a faraway country with Prime Minister Blair, who discussed this with the Parliament on yesterday, a solemn decision, a question of war and peace, a choice of life over death, options other than war.

Many of these issues can be discussed on behalf of the American people. Let us not be afraid to hear both support and opposition. That is what democracy is all about.

My question is, is this Congress going to remain deadly silent on the question of going to war with Iraq?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 417) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 417

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

SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

I am pleased to strongly support this legislation introduced by the gentleman from California (Mr. HUNTER). He has done a superb job of representing his constituents, who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walters Camp, has existed since 1962, and it has provided recreational opportunities to thousands of Americans. In fact, it is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activity.

About 3 years ago the concessionaire was advised by the Fish and Wildlife Service that Walters Camp was inadvertently added to the Cibola Refuge and that corrective legislation was necessary. This is the goal of this measure, to correct this mistake, and there is no opposition to returning the title of this property to the Bureau of Land Management.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER), the author of the bill.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me the time, and I just wanted to say, Mr. Speaker, first, I wanted to give my thanks to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, for his leadership and for understanding how important this bill that deals with a fairly small parcel of land, how important this is to working folks in southern California who need a place to get away from the boss and be with the family and enjoy rock hounding and fishing and canoeing and all the neat things one does on the Colorado River. The chairman, in his usual, very plainspoken and straightforward style, has explained this very well.

This is 140 acres of land, known as Walters Camp, and that is probably named after a gentleman who was a gold miner on the Colorado River at one time. It was a concession that was operated for average folks who could come in and have a great time and rock hound and canoe and fish.

Unfortunately, in the land withdrawal for the Cibola Refuge in 1964, it was mistakenly added into the withdrawal.

□ 1030

Fish and Wildlife have testified on several occasions that it does not have a significant value in terms of wildlife, and so they have no problem with righting this wrong and correcting this mistake.

Mr. Speaker, once again, I thank the gentleman from California (Mr. POMBO), who is doing a superb job of chairing this committee and allowing me to move this bill, bringing it forward; and hopefully we can get the other body to act on it and restore a good measure of outdoor enjoyment to working families in Southern California. I thank the chairman, and I hope that we can pass this with an overwhelming vote.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, before I get to my remarks on H.R. 417, this is the first opportunity I have had to be on the floor with the new chairman of the Committee on Resources, and I wanted to welcome the gentleman from California (Mr. POMBO), the new chairman of the Committee on Resources, and say that I look forward to working with the gentleman.

As stated by the previous speakers, the overall purpose of this legislation is to resolve a long-standing error that included a preexisting concession known as Walters Camp within the original 1964 public land withdrawal that created the Cibola National Wildlife Refuge.

In the 107th Congress, the Committee on Resources determined after a lengthy investigation that the inclusion of this concession was a genuine error in the original withdrawal and agreed that this error should be corrected.

H.R. 417 would make that legal adjustment. But just as important, this legislation will also ensure that all title interests to the 140 acres of land revoked from the Cibola Refuge remain public lands under the jurisdiction of the Bureau of Land Management. Allow me to be clear: nothing is being conveyed to the concession operator as part of this legislation. It is simply a transfer of lands from one Federal agency to another.

This legislation has also retained amendments adopted last year by the Committee on Resources to require the Secretary of the Interior to resurvey and conspicuously mark the new adjusted boundaries. These are prudent actions that should help reduce the likelihood of future encroachment by off-road vehicles onto the Cibola Refuge, which has been a growing management concern for the Fish and Wildlife Service.

In closing, H.R. 417 is commonsense legislation. The bill will correct a technical error that could not be resolved administratively. And furthermore, it will help protect fragile refuge habitats

without compromising opportunities for outdoor recreation in a remote area. I urge Members to support H.R. 417.

Mr. HUNTER. Mr. Speaker, I would like to thank you for allowing a vote on H.R. 417, necessary to right a past error by the Department of Interior in designating the Cibola National Wildlife Refuge. Mr. Frank Dokter, a former constituent whose family business depends on the outcome of this legislation, testified before this panel last year on a similar bill. Although it passed the House, the Senate unfortunately could not act before the end of the 107th Congress.

Mr. Dokter and his family operate Walter's Camp, a Bureau of Land Management (BLM) concession on land near the lower Colorado River in Imperial County, California, near and within the Cibola Refuge. The facility provides visitors with a family-friendly outdoors experience, which includes camping, hiking, canoeing, fishing, birdwatching and rock-hounding. In an increasingly crowded Southern California, Mr. Dokter and his family have provided a welcome diversion from city life to many of the region's outdoors enthusiasts.

Walter's Camp was first authorized in 1962, and in August 1964, Public Land Order 3442 withdrew 16,627 acres along the Colorado River to create the Refuge. The withdrawal erroneously included the 140.32 acre Walter's Camp, but neither the BLM or the Fish and Wildlife Service immediately recognized the mistake. The BLM continued to renew the original permit, allowing the recreational concession use to continue unbroken until the present time. However, given the discovery of the past mistake, the BLM does not have the authority to continue issuing the concession contracts to Walter's Camp.

The Fish and Wildlife Service and the BLM agree that the land has ''insignificant, if any, existing . . . or potential . . . wildlife habitat value,'' as stated in a Department of Interior memo. Therefor, I have introduced H.R. 417 to correct this mistake and allow the BLM to continue to issue contracts to Walter's Camp.

Mr. Speaker, I offer my sincere recommendation that this land to taken out of the Cibola National Wildlife Refuge, and that Mr. Dokter's family be allowed to continue such a valuable and productive service to our region. Respectfully, I urge my colleagues' support on final passage.

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

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 417.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 699) to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

The Clerk read as follows:

H.R. 699

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

SECTION 1. COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the State of Idaho and the State of Washington, shall conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer for the purpose of preparing a model of the aquifer and establishing for those States a mutually acceptable understanding of the aquifer as a ground water resource.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings and conclusions of the study by not later than 3 years after the date of the enactment of this Act.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

For conducting the study under this Act there is authorized to be appropriated to the Secretary $3,500,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

Mr. Speaker, H.R. 699, authored by the gentleman from Washington (Mr. NETHERCUTT), directs the Secretary of the Interior to work with the State of Idaho and the State of Washington to conduct a comprehensive study for the Rathdrum Prairie/Spokane Valley Aquifer by preparing a groundwater model to help establish a mutually acceptable understanding of the aquifer as a groundwater resource. The tools developed by this legislation will help to better coordinate and understand the various factors that influence the quantity and quality of the aquifer and encourage better cooperation between the two States charged with its maintenance operations. I urge adoption of the measure.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 699. This bill simply directs the Secretary of the Interior to conduct a study of the groundwater resources in certain areas of the States of Washington and Idaho. We support this legislation, and I urge my colleagues to do so as well.

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

Mr. POMBO. Mr. Speaker, I urge adoption of the measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 699.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SAN GABRIEL RIVER WATERSHED STUDY ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 519) to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

The Clerk read as follows:

H.R. 519

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

SECTION 1. SAN GABRIEL RIVER WATERSHED STUDY.

(a) SHORT TITLE.—This section may be cited as the ''San Gabriel River Watershed Study Act''.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior (hereafter in this section referred to as the ''Secretary'') shall conduct a special resource study of the following areas:

(A) The San Gabriel River and its tributaries north of and including the city of Santa Fe Springs.

(B) The San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

(2) STUDY CONDUCT AND COMPLETION.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study conducted under this section.

(3) CONSULTATION WITH FEDERAL, STATE, AND LOCAL GOVERNMENTS.—In conducting the study under this section, the Secretary shall consult with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and other appropriate Federal, State, and local governmental entities.

(4) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider regional flood control and drainage needs and publicly owned infrastructure such as wastewater treatment facilities.

(c) REPORT.—Not later than 3 years after funds are made available for this section, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report on the findings, conclusions, and recommendations of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

Mr. Speaker, H.R. 519, introduced by the gentlewoman from California (Ms. SOLIS), would authorize the Secretary of the Interior to conduct a special resource study of the San Gabriel River Watershed in the State of California.

While I will defer to the minority and the bill's sponsor to explain the merits of the legislation, I would express that we greatly appreciate the efforts of the bill's sponsors and the minority to address some early concerns about this bill. These concerns were addressed during the last Congress, and the bill successfully passed the body as part of a larger package, although it ultimately did not become law. This bill now enjoys the broad support of both the majority and the minority, and I urge my colleagues to support it.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 519, sponsored by the gentlewoman from California (Ms. SOLIS), authorizes the Secretary of the Interior to study the feasibility and suitability of establishing a unit of the National Park System which would include parts of the San Gabriel River, as well as a portion of the San Gabriel Mountains. The study would include parts of Los Angeles County, as well as a part of the City of Los Angeles itself.

During the hearings on this measure held during the previous Congress, the gentlewoman from California (Ms. SOLIS) provided testimony and photographs demonstrating that, although this proposed study area is in the midst of a very urban area, some green space has been preserved and might be appropriate for a park unit.

Clearly, such an urban setting raises conservation and management challenges, and we look forward to the results of this study regarding these issues. I want to take this opportunity to congratulate the gentlewoman from California (Ms. SOLIS) on her legislation and her diligence in moving her bill through the legislative process. She has been extremely patient while working very hard to move the bill forward. I urge Members to approve H.R. 519.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentlewoman for working with us. I also thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Chairman Pombo) and the gentleman from California (Mr. RADANOVICH). When we were discussing the bill last year, we went through different versions of the bill. We did try to accommodate the concerns of all Members who were involved in this effort.

I truly think this is a hallmark because it is a bipartisan bill that was working its way through last year, but unfortunately met some barriers on the Senate side. I know this is something that many people in urban areas are looking for as a model. We hear from Members on both sides of the aisle talking about providing open space in urban areas.

This will hopefully provide some type of relief for over 2 million people that reside along the San Gabriel River. I grew up there as a child and spent many Saturday afternoons and vacations in this area. Something that we like to talk about is the fact that so many people in that area come from largely low-income, underrepresented areas, and do not have the ability or economic means to go to Sequoia, to go to Yosemite, to even go to the beach. Some people in my district have never had the luxury of going to the beach. Their recreation occurs in their particular geographic area.

The San Gabriel Mountains are only 20 minutes away from a lot of the residents that I represent. The gentleman from California (Mr. DREIER) and I have worked on this issue. Many of his constituents feel very strongly about the need to provide open space for all communities. This is a step in the right direction. The Department of the Interior will conduct a study, and hopefully they will come up with some good planning so we can move forward. I thank all of the Members for working with me.

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

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

(Mr. CARTER asked and was given permission to speak out of order and to revise and extend his remarks.)

GIVE THE AMERICAN PEOPLE FAIR TAXES

Mr. CARTER. Mr. Speaker, over the course of our Presidents' Day work period, I held nine town hall meetings and listened to over 800 of my constituents express their opinions about issues important to them. Time and again they mentioned fair taxes. The American people want an economy that is sound and that can offer them jobs. We can give the people what they want by passing the President's growth plan.

The double taxation of dividends is not only unfair, it is obscene. Every year, nearly 2 million Texans and 35 million Americans are being cheated by their own government. By simply eliminating the second tax, investments will increase, resulting in 2.1 million jobs being created within the next 3 years and could potentially boost the national wealth by nearly $1 trillion.

Instead of giving the American people a $300 payoff, let us give them a real plan, a plan that will result in jobs, a steady economy, and dollars back in the hands of the taxpayers. For those who say we cannot afford the President's growth plan, I say we cannot afford to not pass his plan.

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

Mr. Speaker, I would like to congratulate my California colleague for all of the hard work the gentlewoman put into this legislation over the past couple of years, thank her again for working with the majority and the minority in order to work this bill out. I think it is a good piece of legislation that deserves the support of the House, and I urge an ''aye'' vote.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 519.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1045

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD on H.R. 417, H.R. 699 and H.R. 519, the three bills just considered.

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

There was no objection.

ARMED FORCES TAX FAIRNESS ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The Clerk read as follows:

H.R. 1307

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a

section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) MEMBERS OF UNIFORMED SERVICES.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services.

''(B) MAXIMUM PERIOD OF SUSPENSION.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Paragraph (3) of section 134(b) (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.''.

(b) CONFORMING AMENDMENT.—Section 134(b)(3)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Subsection (a) of section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subsection (b) of section 134 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) (as amended by section 102) is further amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Paragraph (2) of section 62(a) (relating to certain trade and business deductions of employees) is

amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 10. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

This particular provision is called the Armed Forces Tax Fairness Act of 2003, and a couple of examples, I think, will make it quite obvious as to why it is the tax fairness part of the title that we should focus on. As we now know for some years now, you have been able to exclude the capital gain on a home if you lived in that home as your principal residence for 24 months out of a 5-year period. Of course, we all know that the military as to where they live is subject to the exigencies of the world and the need for military personnel to be dispersed sometimes literally around the world. I think it is entirely appropriate to examine this kind of a piece of legislation in the context of where we are vis-a-vis the President's decision to perhaps move militarily against Iraq.

So what this says is that if, in fact, you are not able to meet that 24-months-out-of-5-year period for exclusion from the capital gains, and the reason you are not able to is because you have been transferred away from home on official extended duty during that 5-year period, you would be exempt from that regulation.

There follow a series of other changes in the Tax Code that very much are representative of that kind of approach in treating the military differently because the military does not have the ability at times, the individuals in the military, to control decisions that affect them directly.

That is the purpose of the bill. It is as it was originally introduced. For purposes of determining the above-the-line deduction for overnight travel expenses for military reservists, this bill, as some people know, passed the House twice in the last Congress, and in negotiating with the Senate, the agreement at that time was that the exemption should be up to $1,500 for reservists who serve more than 100 miles away from home. That was an agreement that had been negotiated between the House and the Senate, and this particular bill includes that agreement so that we could reach quick settlement in a conference between the House and the Senate.

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

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

I rise in support of this suspension bill and congratulate the chairman of the committee for taking the bulbs and baubles and whistles off the Christmas tree that they stacked on this bill initially. I am disappointed that we were not able to do more for our reservists, but I am pleased that we are doing more than they had originally thought on the other side of the aisle. And I am glad to see that we are bringing a clean bill to the floor and that is not bogged down with fish tackle boxes and foreign bettors on horse races.

I do hope during these very sober hours and days that the majority will think more and more about how we can be of assistance to those brave men and women who have volunteered or who are in the Reserve to see what we can do to not only give them political support, but legislatively to give them real support for the dedication that they continuously show not only in defense of this great country, but now in following the mandates of the President.

I would like to say that during time of war, we have become historically accustomed to the fact that we share sacrifices. Soon our chairman will be presenting to us an obscene tax bill that is anything but sacrifice, but would reward the wealthy. I do hope that as the House has caused the committee's leadership to change its mind and try to do things fairly, that we will see a change in attitude as this country is on the brink of war where shared sacrifice means exactly what the President said it would mean, and that is that we all be prepared to give support.

I support the Armed Forces tax fairness bill. I do hope we will see more bills of this kind in the future.

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

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from North Carolina (Mr. JONES), who has a measure included in this bill, which was a separate bill, which is a significant piece of legislation.

Mr. JONES of North Carolina. Mr. Speaker, as Members know, I represent the Third District of North Carolina, which is the home of Camp Lejeune and Cherry Point and Seymour Johnson Air Force Base. A bill that I introduced, H.R. 693, the Military Death Gratuity Improvement Act, I want to thank the chairman and the ranking member for including that bill, or the language from that bill, into this major bill that I think is of great benefit to our men and women in uniform.

□ 1100

I would like to give very briefly the history of this provision because the death gratuity was reaffirmed as a tax free benefit when the Congress amended the Tax Code in 1986; and about a year ago I happened to be driving back to the Congress, and I was listening to a talk show and they were talking about how the fact that our men and women in uniform who received the death gratuity, should they die while serving this Nation, that the families are taxed; and to the chairman and ranking member, this just really bothered my heart, to be honest about it.

So I called my staff and I asked John Weaver if he would look into this, and I thought there must have been some mistake along the way. And actually there was and when the mistake took place was in 1991 when the Congress actually increased the death gratuity from $3,000 to $6,000; and what happened was the Committee on Armed Services did not send the bill to the Committee on Ways and Means, so therefore there was a tax on the second $3,000. And Mr. Speaker and Members of the Congress, as our wonderful men and women in uniform are ready to go to war and to die for this country, I think this is an excellent bill not just because of this provision but because of the other provisions in this major bill that will help our men and women in uniform. So by the passage of this bill today, we are taking the tax off the death gratuity when the government says to the families of those who have lost loved ones that they are receiving this small amount, but yet important amount, of $6,000, that they will not get a bill from the IRS at the end of the year.

So with that I want to thank the chairman and ranking member for including the language from H.R. 693, the Military Death Gratuity Improvement Act, in this bill to help our men and women in uniform. This is just a small portion of the bill, but I thank them very much.

Let me say in closing, Mr. Speaker, to the chairman and the ranking member that the men and women in my district, and again it is Camp Lejeune, Cherry Point, Seymour Johnson Air Force base, are very appreciative of how we have worked together to bring this bill forward to help our men and women in uniform. So with that I thank the chairman for yielding me this time and God bless America.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), an outstanding member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

I want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), ranking member, for developing a process where we could act quickly on this bill. I think this is the

first of, I am sure, other actions that we will be able to do as a body to show our support for the men and women that are in harm's way that are ready to answer the call of our Nation. I think all of us want to do everything we can here to support our troops, as today they are ready to act on behalf of our Nation.

I also want to thank the chairman and ranking member for including the provision in here that was brought to our attention from those families of students that are in our military academies. I have the honor of representing Annapolis where the Naval Academy is located. There was a provision in our code that discriminated against families of those that were in the academies in their ability to withdraw moneys from educational savings accounts without penalty. So I want to thank them for including that provision. There are many other provisions in there bill that provide equity for those who serve in our military, and I know all of us are going to show strong support for this legislation. I just really want to express my appreciation to the chairman and ranking member.

Mr. THOMAS. Mr. Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to just make a few comments on H.R. 1307, and of course ask my colleagues to support it.

Last summer I introduced a bill that contained two of the present provisions, very modest. The bill increased the tax-free death benefit from $3,000 to $6,000 to members of our Armed Forces. Second, the bill made a change to allow members of the Armed Forces to have the 5-year rule, the so-called 5-year rule, deferred during the period they are assigned away from their principal residence. What this does is to allow individuals to take advantage of the law that excludes gain on the sale of a residence up to $250,000 or $500,000 per couple and if they resided in the property for 2 of the 5 years preceding the sale, and that was that. The bill passed the House. Both of these provisions are in and are part of H.R. 1307. The bill also expands the definition of ''member'' to include ancestors and lineal descendants for purposes of certain requirements of tax-exempt veterans organizations. These are all good changes. I recommend them. I support them.

Mr. RANGEL. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services on the Democratic side.

Mr. SKELTON. Mr. Speaker, I appreciate the ranking member recognizing me on this very important bill, the Armed Forces Tax Fairness Act of 2003. So I rise in support of this bill which is much-needed tax relief for our men and women in uniform. And although there was some delay, I am glad that the majority has agreed to remove the extraneous amendments and bring a clean bill to the floor, and we thank them for that. A bill to provide tax relief for brave men and women is not the appropriate vehicle for extraneous amendments.

I hope that this bill will now be able to move forward expeditiously so that our servicemen and women, particularly those in the Guard and Reserve, will be able to receive meaningful and proper tax relief.

Since the end of the Persian Gulf conflict in 1991, our reliance on the Reserve components has steadily increased. In 1993, for example, Reservists and National Guardsmen provided 5.7 million man-days' worth of support to our military. In the wake of the attacks on September 11, 2001, Reservists provided more than 41 million man-days of support to meet military requirements, primarily because of operations Noble Eagle, which of course is protecting the United States, and Enduring Freedom, which was liberating Afghanistan. The demands on our Reservists to participate in military operational missions have more than doubled in recent years.

The global war on terrorism has also increased burden on the Reserves and National Guard. Following the terrorist attacks on September 11, some 85,500 Reserve and National Guardsmen personnel were mobilized for active duty. Thousands were sent to guard our Nation's airports. This provided security for bridges and power plants and water treatment facilities and other important infrastructures that are vital to the American economy. Today, more than 50,000 Reservists still remain mobilized for the global war on terrorism, and almost 20,000 Reservists, and I will say there again, almost 20,000 Reservists face a second year of involuntary active duty.

The last several months have seen the number of mobilized Reservists soar to over 120,000 to meet potential demands for our conflict in Iraq, and these numbers continue to rise daily. Allowing travel expense deductions for Reservists is the least we can do for these brave men and women.

Last year the House and the Senate passed similar tax measures to support the troops. In the waning days of the Congress, the measure was tied up by extraneous provisions, which ultimately led to its demise before adjournment. On the eve of our Nation going to war, and that is what we are going to do, I urge my colleagues to support this measure so that we can move forward in ultimately adopting a bill that will provide significant tax relief for those who wear the uniform of the United States of America.

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

I agree with the gentleman from Missouri that the House and the Senate have indeed acted, but not in concert and let the RECORD note that the House acted in July and again in October. That perhaps was not enough lead time for the Senate; so we are moving in March, and we believe that may be sufficient lead time for the Senate to be able to act.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), a member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for bringing this very important bill, H.R. 1307, to the floor, the Armed Forces Tax Fairness Act. I am pleased to have played a part in the Committee on Ways and Means and delighted it is here on the floor today.

Our forces will soon be engaging the enemy. We pray for their safety and also for a quick and decisive victory. We have about a quarter of a million of our soldiers, sailors, airmen and Marines poised for combat in the Middle East. In addition, thousands upon thousands of our military personnel are patrolling our skies, protecting key domestic sites, and fighting the war on terror both here at home and abroad. Our military families, active duty, the Reserves, and the National Guard are feeling increased pressure from frequent and longer deployments. This legislation brings tax relief and fairness to those who are protecting our freedoms.

I would like to focus quickly, if I may, on the Reserve component. One of the most important provisions of this bill would provide a $1,500 above-the-line deduction for their nonreimbursable overnight travel expenses. Let me underscore these travel expenses are not just for casual jaunts. These are for them to do their training required of them by this government so that they will be ready in fact to provide the backup needed for our active duty troops. Many give up time from their families, certainly leaving their loved ones, to be ready to combat the evil that may occur in this country or in fact abroad.

For too long our Reservists have incurred significant out-of-pocket costs associated with traveling to and from their Reserve stations. Our men and women in uniform should not be financially punished for serving their country, and thankfully this legislation fixes that problem. Our men and women in uniform deserve nothing less, and again I reiterate our prayers today go out to all families and particularly those who are in harm's way as they lead freedom in Iraq and certainly lead us away from terror in the United States.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. MCNULTY), an outstanding member of the Committee on Ways and Means.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), my friend and colleague, for yielding me this time.

As I have said many times on this floor, as I get older, I try to keep my

priorities straight. And part of that is to remember that had it not been for all of the men and women who have worn the uniform of the United States military through the years, people like me would not have the privilege of going around bragging about how we live in the freest and most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it. And I try not to let a day go by without remembering with deepest gratitude all of those who, like my own brother Bill McNulty, made the supreme sacrifice; and all of those who served and put their lives on the line like the gentleman from New York (Mr. RANGEL), like the gentleman from Texas (Mr. SAM JOHNSON), like other people in this Chamber. Thankfully they came back home and rendered outstanding service in the community and raised beautiful families to carry on in their fine traditions. We all should be deeply grateful for that. And that is why when I get up in the morning, my first two priorities are to thank God for my life, and then veterans for my way of life.

Today more than a quarter of a million brave Americans are overseas poised for military action. Let us remember them in our thoughts and prayers every day. This proposal is a very modest proposal; but it is well earned, it is deserved, and I am deeply grateful to the chairman of the committee and the ranking member for bringing it to the floor. I urge all members to support it.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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

□ 1115

Mr. LEVIN. This is an important bill. Many of us regret that it could not have been brought to this floor earlier without provisions that were totally unrelated to its basic purpose. It is important because so many of our Reserve and Guard members today are overseas, along with others, and what this bill says very significantly is that all members of our Armed Forces should be treated with equity and treated with the utmost sensitivity and respect.

The bill is important because we bring it up today at a significant moment. What it says, I think, for all of us, is this: Whatever the disagreements, and there have been and remain such as to the policies and approach of this administration, we here stand fully behind those men and women who are fighting in our armed services.

So I hope that today we will join in support of this bill. It now has a single important purpose, and that is to say to our troops, here and abroad, we stand with you.

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

Mr. Speaker, the gentleman from New York (Mr. MCNULTY) eloquently indicated that freedom is not free, and that his own brother did not return in paying the ultimate price.

Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Texas (Mr. SAM JOHNSON), who served his country admirably, and did return with an amazing story.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is for our military, and thank goodness we have got it for them all the way through.

Last spring a constituent of mine, Paul Miesse, was researching college savings plans, including the State education plans. His son Kyle, in Junior ROTC, would like to someday apply to the Naval Academy, as well as other schools.

Currently 529 State plans and Coverdell Education Savings Accounts allow people to save for college, and those savings remain untaxed if spent on education costs. It is a responsible thing for parents to save for their children's education, but if the student is smart enough or athletic enough to get a scholarship, then the parents can get their money back from the 529 plan or Coverdell plan penalty free. However, because of an oversight, which is rectified in this bill, military academies do not qualify for that penalty-free rebate of their savings.

I think that when hard-working, patriotic young Americans are rewarded with an appointment to a service academy, we ought not turn around and impose a 10 percent penalty on their parents who diligently saved for their children's education. We should provide the same penalty-free withdrawals for the Zoomie, the Plebe, the Middy or the Cadet as we provide to those who play sports, earn an academic scholarship or pay for school through ROTC.

This change we are making today will ensure that students who attend our U.S. military academies get the same treatment under college savings plans as their peers.

Given that each of us is eligible to make appointments to the United States service academies, I think all of us in Congress have a direct interest in making sure we solve this problem. In fact, there are 50 students in the Third District, my district, at all of the academies at any given time.

I want to thank constituents Paul, Jeanette and Kyle Miesse of Plano, Texas, who brought this issue to my attention. I think our forefathers envisioned that it is people like the Miesses of Texas who really make a difference, and it is our servicemen overseas and in this country who defend this freedom, and that is who we are trying to protect. I urge support of this bill.

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

Mr. Speaker, again, I would like to say that we should feel very proud that we are making this minor adjustment to improve the quality of life by reducing tax liability on men and women in uniform. It is hard for me to believe that as we talk, it is suggested that we are reducing the money for education for those people who are in uniform around the country, those that are dependent on Federal funds to support the localities where the men and women are stationed here in the United States. In addition to that, we are cutting back on aid for our veterans.

I would hope that in the spirit in which we pass this very modest bill, that all of us, Republicans and Democrats, liberals and conservatives, make some spirited effort to not have patriotism just be a flag on the bumper of a car, but to make some special effort to give priorities to those men and women in uniform by making certain that their kids are not denied an opportunity to get an education, and making certain that those who go in and serve, that their benefits are not being reduced.

Having said that, I would like to close on this and indicate that I think it is worthwhile that we get a record vote on this legislation not so much for political reasons, but so that our men and women would know that they would have a unanimous vote by the House of Representatives not only on this bill, but many bills that I hope will come before us where we can differ with the policy, but we will make it unequivocal support for those who volunteer to salute our great flag and our great country.

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

Mr. THOMAS. Mr. Speaker, I want to join in the statement of the gentleman from New York.

Mr. REYES. Mr. Speaker, I am proud to support the members of our Nation's armed services and vote for the Armed Forces Tax Fairness Act that recognizes their contributions to our Nation and our freedom. The men and women of the Armed Forces, more than any other group, deserve to be first in line when Congress considers tax cuts and special exemptions from tax obligations. At a time when so much is being asked of our service members, it is only appropriate that we make this effort.

The Armed Forces Tax Fairness Act will make tax free the entire $6,000 death gratuity paid to survivors of service members killed in the line of duty. The bill also makes payments from the Defense Department's Homeowners Assistance Program tax free.

The bill reduces taxes for some service members who sell their home by making changes to capital gains taxes on the sale of residences. The new rules will be helpful to those who have served on multiple deployments and have therefore lived at their residence for less than 2 of the last 5 years.

Recognizing the important role played by members of the National Guard, especially at this time when they are being called upon to serve abroad and here at home in the fight against terror, the Armed Forces Tax Fairness Act allows members of the National Guard to deduct up to $1,500 in travel, lodging, and meal expenses from their taxable income if they have to travel more than 100 miles to attend National Guard and reserve meetings.

One of the most commonsense provisions of this bill recognizes that when a member of our military is deployed, poised for action but not yet in combat, they should not be preoccupied with meeting IRS deadlines. This bill suspends tax filing rules for service members participating in contingency operations. Currently, such a suspension is only made available to service members in combat.

Other measures in the bill salute past and future service members. One provision ensures that veterans organizations will not lose their tax-exempt status when admitting ancestors and direct descendants of veterans as members, and another provision allows students attending any one of our military service academies to withdraw funds from education savings accounts and qualified tuition programs without having to pay any penalties.

All these measures form a combined message and action of support to our troops at a critical time. I am proud to support the Armed Forces Tax Fairness Act and urge all my colleagues to do the same.

Mr. MEEK of Florida. Mr. Speaker:

It is the soldier, not the reporter, Who has given us freedom of the press.
It is the soldier, not the poet, Who has given us freedom of speech.
It is the soldier, not the organizer, Who has given us freedom to demonstrate.
It is the soldier, Who Salutes the flag, Who serves beneath the flag,
And whose coffin is draped by the flag, Who allows the protestor to burn the flag.''
—[Charles M. Province]

Mr. MEEK of Florida. I open my remarks with this quote by Charles M. Province by thanking those men and women who continue to serve in the United States military and provide us with the freedoms that we so frequently take for granted. We don't all have to agree about the conditions and terms and politics of war to agree that we have men and women in uniform who are among the finest human beings on this planet. It is fitting that at a time when our thoughts and prayers are most strongly focused on them, that we in the 108th Congress have this opportunity to offer them this small showing of our commitment to them.

According to the U.S. Department of Defense, more than 188,000 members of the National Guard and Reserve are currently mobilized for active duty on top of the many hundreds of thousands of career active duty soldiers. These friends, neighbors, and family members are putting their everyday lives on hold in order to protect us and provide us with more than a sense, but a knowledge of security.

Our military personnel and their families make enough sacrifices. They should not have to further sacrifice tax fairness just because they wear a uniform of the armed services. We need to provide incentives for our military personnel to continue their service to our country. Moreover, we need to provide adequate and fair compensation for our military personnel by ensuring that those men and women are treated fairly and equally under the provisions of the Internal Revenue Code.

I think this bill does just that.

This bill:

Exempts payment to beneficiary of soldiers killed in the line of duty;

Extends the income tax deadline for soldiers deployed overseas for potential action;

Makes it easier for transferred soldiers to be exempted from capital gains taxes on the sale of their homes; and,

Would provide guardsmen and reservist an above-the-line deduction for unreimbursed travel expenses incurred by members of the reserve components, while going to and from training.

These are simply issues of fairness. The Floridians and other fine Americans that take the stand to fight for our country deserve every fair consideration under our tax laws. The Tax Code is complicated enough, and our military should not be penalized for making decisions required because their official assignments. By passing this legislation, we are helping the members of our armed forces so that they will no longer be burdened by out-of-date tax regulations that penalize them even as they are serving our country.

Finally, I'd like to congratulate leadership for bringing this good bill to the floor clean so that we can focus on an issue on which Republicans and Democrats all agree—equity and fairness for members of the uniformed services.

Everyday, both in peacetime and in wartime, the brave men and women of our military work to preserve our freedoms. With this small token, I hope we can preserve some of theirs. I urge the support of this good bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H.R. 878, the Armed Forces Tax Fairness Act of 2003. It has been long overdue that we provide real relief to the men and women who serve in our Armed Forces. Many of the members of the military are minorities, and this bill will help many in my own 18th Congressional District in Houston. More than 200,000 troops are now being employed to the Persian Gulf. In Houston, many soldiers will be called upon to serve on the front lines.

This legislation provides tax relief to the members of our military. Our soldiers are on the frontlines every day, and now as a war with Iraq looms, we are calling upon these men and women to make even greater sacrifices. While I support this legislation, I wanted the bill to focus solely on tax benefits for military personnel and not to be used as a vehicle for special interest tax breaks.

Studies have shown pay rates in the military consistently lag behind comparable jobs in the private sector. I believe that this legislation would help military families as they struggle like so many to pay basic expenses.

The provisions in this legislation would provide tax breaks on home sales, travel expenses, and death benefits. We have ample tax benefits for corporations, it is time to help our officers and enlisted soldiers in the Armed Forces.

Now more than ever, it's important to support America's top-notch Armed Forces. I've always believed that in order for Americans to enjoy the freedom that characterizes our country, and for Texans to be able to fully enjoy the natural beauty and resources of our State, it is crucial for the citizens of the Nation and our State to feel safe.

To achieve this goal, it's vital that we keep America's Armed Forces strong. Throughout the years, I've fought for funding to constantly improve the quality of defense-related activities in my State of Texas.

The importance of national defense is increasing every day, and I will continue to support our Armed Forces—they are the young men and women on the front lines who are called to sacrifice for this great Nation and to preserve our constitutional protections and liberties.

I urge my colleagues to support this bill.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H.R. 1307, the Armed Forces Tax Fairness Act of 2003, as it relates to the members of our armed services—active duty, reserve components, and National Guard personnel serving on active duty. Indeed, this Member would like to commend the Ways and Means Committee Chairman, the distinguished gentleman from California (Mr. THOMAS), for his efforts to craft this very timely legislation which will assist our military personnel.

Across the U.S., men and women serving in active, Reserve, and National Guard units are mobilizing and deploying. Whether for missions at the Nebraska Air National Guard base in Lincoln, in Bosnia, in the Middle East, or elsewhere, these mobilizations and deployments have an immediate impact on families, employers, and communities. Indeed, deployments separate families which have young children. Moms and dads spend their children's birthdays overseas. Husbands and wives miss spending anniversaries together. Men and women leave their places of employment and also their paychecks as they mobilize. In this Member's home state of Nebraska, already 35 percent of the National Guard personnel have been mobilized for active duty.

Today, this body has the opportunity to send these men and women a very much deserved ''thank you'' for their personal and financial sacrifices by adjusting the tax code to reflect the realities which military personnel and their families face, such as frequent moves and increased child care costs associated with deployments.

The Armed Forces Tax Fairness Act of 2003 is a diverse bill; first and foremost it would provide assistance to men and women serving on military frontlines. For example, H.R. 1307 would amend the Internal Revenue Code to allow military personnel, who are transferred, to utilize the capital gains tax relief on the sale of their home by suspending the running of the present law 5-year rule for a total of 5 years during the time they are assigned away from home. The 5-year rule provides that an individual is not subject to the capital gains taxes for the first $250,000, or for a couple, the first $500,000 on a joint return on the sale of a home if it has been the principal residence for 2 out of the last 5 years. Because military personnel move frequently, they often do not meet the residence requirement. This legislation would suspend the residence requirement when the military personnel are stationed 250 miles from their primary house.

Additionally, H.R. 1307 would allow National Guard members to take an above-the-line deduction of overnight travel expenses associated with their service. This is particularly important for, as an example, Nebraska's National Guard members frequently must travel extensive distances to participate in Guard training and drills.

Other provisions within the legislation would clarify how certain child care expenses shall be treated and would exempt military death gratuity payments from taxes. (Currently, survivors of military personnel receive $6,000 of which $3,000 is taxable.)

Mr. Speaker, this Member strongly urges his colleagues to vote for H.R. 1307 for at least

the tax changes aforementioned are quite appropriate.

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

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1307.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1307.

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

There was no objection.

TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The Clerk read as follows:

H.R. 1308

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

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

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief, Simplification, and Equity Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

TITLE I—ENDING ABUSIVE TAX PRACTICES

SEC. 101. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

''(B) the net worth of the individual as of such date is $2,000,000 or more, or

''(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

''(c) EXCEPTIONS.—

''(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

''(2) DUAL CITIZENS.—

''(A) IN GENERAL.—An individual is described in this paragraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

''(ii) the individual has had no substantial contacts with the United States.

''(B) SUBSTANTIAL CONTACTS.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

''(i) was never a resident of the United States (as defined in section 7701(b)),

''(ii) has never held a United States passport, and

''(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

''(3) CERTAIN MINORS.—An individual is described in this paragraph if—

''(A) the individual became at birth a citizen of the United States,

''(B) neither parent of such individual was a citizen of the United States at the time of such birth,

''(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

''(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.''.

(3) CONFORMING AMENDMENT.—Section 2107(a) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).''.

(b) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

''(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

''(2) provides a statement in accordance with section 6039G.''.

(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR MORE THAN 30 DAYS.—Section

877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

''(g) PHYSICAL PRESENCE.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.''.

(d) TRANSFERS SUBJECT TO GIFT TAX.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

''(6) TRANSFERS OF CERTAIN STOCK.—

''(A) IN GENERAL.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

''(B) VALUATION.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

''(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

''(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation,then that proportion of the fair market value of the stock of such foreign corporation owned (within the meaning of section 958(a)) by such donor at the time of such transfer, which the fair market value of any assets owned by such foreign corporation and situated in the United States, at the time of such transfer, bears to the total fair market value of all assets owned by such foreign corporation at the time of such transfer, shall be included in the value of such property.

For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.''.

(e) ENHANCED INFORMATION REPORTING FROM INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6039G is amended to read as follows:

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).''.

(2) INFORMATION TO BE PROVIDED.—Subsection (b) of section 6039G is amended to read as follows:

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country, in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) information detailing the assets and liabilities of such individual,

''(6) the number of days that the individual was present in the United States during the taxable year, and

''(7) such other information as the Secretary may prescribe.''.

(3) INCREASE IN PENALTY.—Subsection (d) of section 6039G is amended to read as follows:

''(d) PENALTY.—If—

''(1) an individual is required to file a statement under subsection (a) for any taxable year, and

''(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(4) CONFORMING AMENDMENT.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SEC. 102. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 103. EXPRESSING THE SENSE OF THE CONGRESS THAT TAX REFORM IS NEEDED TO ADDRESS THE ISSUE OF CORPORATE EXPATRIATION.

(a) FINDINGS.—The Congress finds that—

(1) the tax laws of the United States are overly complex;

(2) the tax laws of the United States are among the most burdensome and uncompetitive in the world;

(3) the tax laws of the United States make it difficult for domestically-owned United States companies to compete abroad and in the United States;

(4) a domestically-owned corporation is disadvantaged compared to a United States subsidiary of a foreign-owned corporation; and

(5) international competitiveness is forcing many United States corporations to make a choice they do not want to make–go out of business, sell the business to a foreign competitor, or become a subsidiary of a foreign corporation (i.e., engage in an inversion transaction).

(b) SENSE OF CONGRESS.—It is the sense of Congress that passage of legislation to fix

the underlying problems with our tax laws is essential and should occur as soon as possible, so United States corporations will not face the current pressures to engage in inversion transactions.

TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

SEC. 201. SPECIAL RULE FOR MEMBERS OF FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) MEMBERS OF FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the Foreign Service.

''(B) MAXIMUM PERIOD OF SUSPENSION.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

''(ii) FOREIGN SERVICE.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 202. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF ASTRONAUTS WHO LOSE THEIR LIVES ON A SPACE MISSION.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting **'', ASTRONAUTS,''** after **''FORCES''**.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Subsection (b) of section 2201 (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting **'', DEATHS OF ASTRONAUTS,''** after **''FORCES''**.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE III—HEALTH PROVISIONS

SEC. 301. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 302. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45C(b) (relating to qualified clinical testing expenses) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed. The preceding sentence shall not apply with respect to any expense incurred after December 31, 2010.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

TITLE IV—FOREST CONSERVATION ACTIVITIES

SEC. 401. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term ''qualified forest conservation bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is an obligation of the State of Washington or any political subdivision thereof and is issued for the Evergreen Forest Trust, and

(C) such bond is issued before October 1, 2004.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—The maximum aggregate face amount of bonds which may be issued under this section shall not exceed $250,000,000.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term ''qualified project costs'' means the sum of—

(A) the cost of acquisition by the Evergreen Forest Trust from an unrelated person of forests and forest land—

(i) which are located in the State of Washington, and

(ii) which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued

to refund a qualified forest conservation bond issued before October 1, 2004, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued after the date of the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by the Evergreen Forest Trust shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ''qualified harvesting activity'' means the sale, lease, or harvesting, of standing timber—

(i) on land owned by the Evergreen Forest Trust which was acquired with proceeds of qualified forest conservation bonds, and

(ii) pursuant to a qualified conservation plan adopted by the Evergreen Forest Trust.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting during any period that the Evergreen Forest Trust is not a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land, or

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack.

(3) TERMINATION.—This subsection shall not apply to any qualified harvesting activity occurring after the date on which there is no outstanding qualified forest conservation bond or any such bond ceases to be a tax-exempt bond.

(4) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (2)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary, by the sum of the tax benefit attributable to such excess and interest at the underpayment rate under section 6621 for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term ''qualified conservation plan'' means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land,

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the Westside Douglas Fir forest type,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat,

(v) enhancing research opportunities in sustainable renewable resource uses, or

(vi) preserving or protecting open space.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the Evergreen Forest Trust to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means an organization—

(A) which is a nonprofit organization organized and operated exclusively for charitable, scientific, or educational purposes including but not limited to acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific, and public benefit of the State of Washington,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has a board of directors that at all times is comprised of 9 members—

(i) at least 2 of whom represent the holders of the conservation restriction described in paragraph (2), and

(ii) at least 2 of whom are public officials,

(E) of which not more than one-third of the members of the board of directors is comprised of individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the Evergreen Forest Trust has a contractual or other financial arrangement,

(F) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation program and any change thereto, and

(G) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) EVERGREEN FOREST TRUST.—The term ''Evergreen Forest Trust'' means a nonprofit corporation known as the Evergreen Forest Trust which was incorporated on February 25, 2000, under chapter 24.03 of the Revised Code of Washington and which, on May 11, 2001, was recognized as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

(5) UNRELATED PERSON.—The term ''unrelated person'' means a person who is not a related person.

(6) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting ''25 percent'' for ''50 percent'' each place it occurs therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

SEC. 501. SIMPLIFICATION OF EXCISE TAX IMPOSED ON BOWS AND ARROWS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (3),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—The tax imposed by subparagraph (A) on an arrow shall not apply if the arrow contains an arrow shaft subject to the tax imposed by paragraph (2).

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENT.—The heading of section 4161(b)(2) is amended by striking ''ARROWS.—'' and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the 90th day after the date of the enactment of this Act.

SEC. 502. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking ''retains an economic interest

in such timber'' and inserting ''either retains an economic interest in such timber or makes an outright sale of such timber''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking ''The date of disposal'' and inserting ''In the case of disposal of timber with a retained economic interest, the date of disposal''.

(2) The heading for section 631(b) is amended by striking ''WITH A RETAINED ECONOMIC INTEREST''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 503. REPEAL OF EXCISE TAX ON FISHING TACKLE BOXES.

(a) REPEAL.—Paragraph (6) of section 4162(a) (defining sport fishing equipment) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (J) as subparagraphs (C) through (I), respectively.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 504. TREATMENT UNDER AT-RISK RULES OF PUBLICLY TRADED NONRECOURSE DEBT.

(a) IN GENERAL.—Subparagraph (A) of section 465(b)(6) (relating to qualified nonrecourse financing treated as amount at risk) is amended by striking ''share of'' and all that follows and inserting ''share of—

''(i) any qualified nonrecourse financing which is secured by real property used in such activity, and

''(ii) any other financing which—

''(I) would (but for subparagraph (B)(ii)) be qualified nonrecourse financing,

''(II) is qualified publicly traded debt, and

''(III) is not borrowed by the taxpayer from a person described in subclause (I), (II), or (III) of section 49(a)(1)(D)(iv).''.

(b) QUALIFIED PUBLICLY TRADED DEBT.—Paragraph (6) of section 465(b) is amended by adding at the end the following new subparagraph:

''(F) QUALIFIED PUBLICLY TRADED DEBT.—For purposes of subparagraph (A), the term 'qualified publicly traded debt' means any debt instrument which is readily tradable on an established securities market. Such term shall not include any debt instrument which has a yield to maturity which equals or exceeds the limitation in section 163(i)(1)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

TITLE VI—EQUITY FOR FARMERS

SEC. 601. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking ''CONDITIONS.—For purposes'' and inserting ''CONDITIONS.—

''(1) IN GENERAL.—For purposes'', and

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

''(2) EXTENSION OF REPLACEMENT PERIOD.—

''(A) IN GENERAL.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

''(B) FURTHER EXTENSION BY SECRETARY.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.''.

(b) INCOME INCLUSION RULES.—Subsection (e) of section 451 (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

''(3) SPECIAL ELECTION RULES.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any taxable year with respect to which the due date (without regard to extensions) for the return is after December 31, 2002.

SEC. 602. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 55 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax liability.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 603. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

TITLE VII—PROTECTION OF SOCIAL SECURITY

SEC. 701. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than title I, section 301, and this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, this is a modest bill that has come to the light of day by virtue of examining those issues, although modest in nature, that have passed the House or the Senate, or both, one or more times, but somehow have never made it to the President's desk for signature.

Other measures in this bill are those measures that raise revenue in ways that those committees responsible for assisting us in determining ways to change the law indicate an appropriate change of the law.

Lastly, there are items which were approved by the committee, notwithstanding the fact they do not raise revenue or they had been approved previously, which merited the committee's voice voting, that is, no recorded vote, and the bill itself passed by a voice vote. If there was a measure that appeared to elicit controversy, that is, it was a recorded vote in committee, then that measure is not included in this particular provision. For example, there was an amendment offered to extend some provisions of the military bill just passed to astronauts who die on space missions. Obviously, that was a voice vote, and it was unanimously agreed to.

There is a modification on the orphan drug credit provision. This particular measure has passed the Committee on Ways and Means twice, it passed the House three times, and it passed the Senate, but, notwithstanding that stellar legislative career, it has never made it to the President's desk for his signature.

There are other items in here which exemplify the fact that brought to our attention over time are provisions of the Tax Code which make absolutely no sense and should not remain in the Tax Code for 1 day longer than our ability to amend it, and, yet, notwithstanding that, remain on the books.

The gentleman from Wisconsin brought us an example which I think is particularly egregious. It has to do with a very modest subject called bows and arrows. As you might guess, some arrows are produced domestically, and some are produced outside the United States. You would think that if someone was going to import the components to assemble an arrow, that is, use foreign parts and U.S. labor, that you would not tax the foreign parts so that they could come in, so the value added would be U.S. to produce that arrow.

But, ironically, it is exactly the opposite. It is the completed arrow, with the foreign labor added, that comes in free of a tax, and the component parts are taxed, which would make it more expensive if you added U.S. labor. That is in direct competition to a U.S. arrow which carries the tax.

Now, how in the world could the Tax Code get that far on its head? You do not want to pursue that questioning, you only want to change it immediately; not so, as some of the media has reported, that we give a tax break to domestic producers of arrows, but that we create a fair and equitable relationship between those arrows composed of foreign components assembled by foreign labor in competition with American arrows composed of American material. It seems to me that the only fair thing is to treat them equally. The Tax Code does not do that, in part or in whole. That is a typical example of one of the modest measures that are included in this provision.

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

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

Mr. Speaker, I guess I rise in support of the bill. The reason I reluctantly say ''I guess'' is because the Republicans once again have shrewdly put us into a political box by bringing to the floor a provision that provides tax relief for the families of the *Columbia* Shuttle astronauts out of compassion for these families. There is no one in the country, no one in the House, that would not want to support this very, very sensitive provision. But, once again, the Republican leadership has to make things difficult.

I am really amazed and surprised that as we ask for support for this bill, that we have to put tax provisions on this bill to provide relief for those people who make bows and arrows. It is totally unbelievable. If that is not enough, then we have to find out why would we repeal the tax on fishing tackle boxes and provide benefits for livestock sold on account of drought or other weather-related issues?

Why, in God's name, can we not hold sacred just taking care of the families of the shuttle astronauts, and not clobber this bill with stuff that is just nothing more than provisions that people want to provide for their people back home? I have no problem with providing relief for pet projects back home. That is part of our responsibility. But why in the world would we put it on a bill like this?

I will tell you why; so we do not have to debate these things on their merit. There is no one, in my opinion, prepared to explain why they voted against the families of *Columbia* Shuttle astronauts from receiving benefits.

I may have missed something. Thank God they have taken out eliminating taxes on foreign bettors on horse racing. They have taken out repeal of consumer health protection.

But if the Republicans have anything else to say about this bill, and I do hope that they do, please explain to this Member why on this bill they sought to attach unrelated tax benefits for fishing tackle boxes, for removing taxes on bows and arrows, and providing benefits for livestock sold on account of drought or other weather-related conditions.

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It would seem to me that if this relief is important enough for the House of Representatives to consider, then out of respect, it should never, never, never have been put on the Suspension Calendar with the Columbian shuttle astronaut bill which puts the Members of the House in the position of having to support stuff that they never would be able to explain because they support the families of the shuttle victims.

Well, I do hope to hear from the other side soon on these other issues.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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

Mr. LEVIN. Mr. Speaker, the gentleman from New York (Mr. RANGEL) has explained his reluctant support because of the provision in here that needs to be in here. As I understand it, that positive provision was taken from the other bill and placed in this bill, so we are in a situation where, as to the clearly legitimate provision, we either vote ''yes'' and pass this or vote ''no'' because of other provisions and, therefore, bring down what we should be doing.

This is not the way to proceed in a deliberative body where there is also respect for the views of every Member of this institution and the ability of every Member here to be heard, to at least raise the issue of amendments.

So I want to just say a few words about two of the provisions, one relating to individual inversions or those expatriates, people who leave the country to avoid taxes. There is a Senate approach and a House approach. The Senate approach is far superior. What it does essentially is it says to people who leave this country, individuals, we are going to tax you as you leave on all of your unrealized income. The House bill is much weaker. We should have had a chance to present these two alternatives on the floor of the House.

Secondly, let me say a word about the sense of the Congress on the issue of corporate expatriation. The gentleman from Massachusetts (Mr. NEAL) has had a bill here for months that addresses this issue. What this sense of the Congress provision does is essentially to, I think, paper it over and to paper it over incorrectly. Essentially what it says is, to those who engage in corporate expatriation, it is not your fault, it is the fault of the Tax Code. And I do not think we should be giving that kind of, if not approval, a pass to those corporations that escape American taxes by moving a headquarters overseas while often continuing to have a major presence in the U.S.

We can do much better on both individual and corporate inversions expatriations. But what has happened here is we have eliminated our chance to even consider this intelligently and deliberately by putting these provisions in a bill in a way that we cannot vote ''no.''

So those of us who will vote ''yes,'' in many cases, vote with those limitations.

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

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

I am disappointed that we do not have an explanation as to why the fishing tackle boxes and the removal of taxes of bows and arrows and benefits for livestock and an explanation of why those are on this bill, but I guess silence is probably the best explanation that we can possibly come up with, and that is they feel very awkward and embarrassed and ashamed that they would have to resort to a mechanism like this in putting this on the *Columbia* Shuttle victims' bill.

That being what it is, I am not prepared to go home and explain why I voted for these bows and arrows and fishing boxes and livestock. It suffices to say that all of us in our hearts know that the same way the men and women have been heroes for all of us in the Armed Forces, we cannot do enough to pay tribute to the heroes that served the United States and the world by meeting the challenges of outer space, and that forever in our hearts we will remember the families of the *Columbia* Shuttle, and whatever we can ever do in the Congress or anywhere, for that matter, to ease their pain and to show our support, we want the families to know that even if sometimes it means swallowing hard, they can depend on us being there for them as they were there for us.

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

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

This gentleman from California spent, I believe, 3 minutes explaining the bow and arrow provision and why it was included. It was an amendment that was presented to the committee. It is an unfairness in the Tax Code, and it passed by a voice vote, just as the astronaut provision was an amendment to this measure.

Now, I know that in some situations you are damned if you do and damned if you do not. Had we selectively pulled amendments out and included them in the military bill, we would have been criticized, as we were before, that we were placing items on the military bill that, in fact, were not originally on the bill. That is why we are carrying a separate bill in dealing with all of those amendments that passed by voice vote.

I did say in the opening statement one of the provisions, as compared to all of the other provisions that have passed the House, the Senate, and sometimes both multiple times, the livestock provision did not pass the House before. It is a response to a current problem and circumstance. When you lose livestock, you have an ability to deal with an involuntary conversion. The loss of livestock is over the drought.

Now, it is unfortunate that weather does not follow a taxable calendar year. If that were the case and we have 2 years in which to deal with the involuntary compensation and replace the livestock, if that drought which killed the first cow is still present and will kill the second cow, it does not make a whole lot of sense to provide a time frame which encompasses an ongoing drought. So the gentleman from Colorado offered an amendment, accepted by voice vote, that says, let us extend that involuntary conversion to 4 years and not 2. Hopefully, the drought will

be over in that 4-year period, and they will be able to get an involuntary conversion for a cow that, because there is no longer a drought, will be able to stay alive.

It seems to me that these provisions are worthy and should move forward.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 1308, the Tax Reform, Simplification and Equity Act, and in particular the provisions which will assist our nation's farmers and ranchers who are suffering from a devastating drought.

Mr. Speaker, this Member is pleased that H.R. 1308 includes an important provision originally introduced by the distinguished gentleman from Colorado (Mr. MCINNIS) which is designed to assist farmers and ranchers suffering from the drought. This Member is a strong supporter and cosponsor of the Ranchers HELP Act, which is included in H.R. 1308. This provision would provide ''involuntary conversion'' tax relief for producers forced to sell livestock under certain circumstances, such as weather-related conditions. Specifically, the bill would allow producers four years (rather than the current two year limit) after a forced sale to reinvest in livestock without facing capital gains taxes. The Ranchers HELP legislation also would allow the Federal Government the flexibility to extend the amount of time a farmer or rancher can take to restore a herd in certain regions experiencing a drought which lasts more than three years.

It is important for the Federal Government to take actions, where appropriate to help relieve the hardships caused by the severe drought affecting Nebraska and the Great Plains region. The provisions included in this bill are an important step in that direction.

There are two other provisions that should help farmers. Under current law, farmers are allowed to average their income over three years for tax purposes since farm income often fluctuates from year to year. However, farmers who choose this option often fall into the Alternative Minimum Tax (AMT). The provision in H.R. 1308 ensures that farmers are not harmed by the AMT if they elect income averaging. In 1999 and 2000, this provision was included in a tax relief bill passed by the House and the Senate that subsequently was vetoed by then-President Clinton twice.

Another provision will help cooperatives that now face up to three levels of tax penalties. This legislation includes a reduction of one of these levels by providing that patronage dividends of cooperatives will not be reduced by stock dividends to the extent the stock dividends are in addition to amounts otherwise payable.

Mr. Speaker, this Member urges his colleagues to support H.R. 1308, the Tax Reform, Simplification and Equity Act.

Ms. DUNN. Mr. Speaker, I rise today in support of H.R. 1308, the Tax Relief, Simplification, and Equity Act.

Among other items, the bill contains an innovative solution to one of the most difficult challenges we face as policymakers—conserving our land while ensuring that it remains a source of economic activity.

What has been lacking in the Pacific Northwest is cooperation and collaboration between environmentalists, the business community, and local government on how best to solve difficult environmental issues. Until now.

Recently, numerous programs in Washington State have been developed that provide a road map for how everybody can come together to achieve environmental protection.

In particular, numerous conservation groups have been working with large landowners in an attempt to purchase sensitive parcels of land and protect them from development. What they're lacking is access to capital.

This bill will give them tax-exempt bond financing to preserve these lands. In exchange, the land must continue to be used as a productive resource and managed with the input of a diverse group of interests.

In the interest of progress in land conservation, I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H.R. 1308, the bill just passed.

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

There was no objection.

SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes.

The Clerk read as follows:

H. RES. 132

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals, in Newdow v. United States Congress (292 F.3d 597; 9th Cir. 2002) (Newdow I), held that the Pledge of Allegiance to the Flag as currently written to include the phrase, ''one Nation, under God'', unconstitutionally endorses religion, that such phrase was added to the pledge in 1954 only to advance religion in violation of the establishment clause, and that the recitation of the pledge in public schools at the start of every school day coerces students who choose not to recite the pledge into participating in a religious exercise in violation of the establishment clause of the first amendment;

Whereas on February 28, 2003, the Ninth Circuit Court of Appeals amended its ruling in this case, and held (in Newdow II) that a California public school district's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the pledge and thus violates the establishment clause of the first amendment;

Whereas the ninth circuit's ruling in Newdow II contradicts the clear implication of the holdings in various Supreme Court cases, and the spirit of numerous other Supreme Court cases in which members of the Court have explicitly stated, that the voluntary recitation of the Pledge of Allegiance to the Flag is consistent with the first amendment;

Whereas the phrase, ''one Nation, under God'', as included in the Pledge of Allegiance to the Flag, reflects the notion that the Nation's founding was largely motivated by and inspired by the Founding Fathers' religious beliefs;

Whereas the Pledge of Allegiance to the Flag is not a prayer or statement of religious faith, and its recitation is not a religious exercise, but rather, it is a patriotic exercise in which one expresses support for the United States and pledges allegiance to the flag, the principles for which the flag stands, and the Nation;

Whereas the House of Representatives recognizes the right of those who do not share the beliefs expressed in the pledge or who do not wish to pledge allegiance to the flag to refrain from its recitation;

Whereas the effect of the ninth circuit's ruling in Newdow II will prohibit the recitation of the pledge at every public school in 9 states, schooling over 9.6 million students, and could lead to the prohibition of, or severe restrictions on, other voluntary speech containing religious references in these classrooms;

Whereas rather than promoting neutrality on the question of religious belief, this decision requires public school districts to adopt a preference against speech containing religious references;

Whereas the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents, such as the Declaration of Independence, the Constitution, and the Gettysburg Address, has been placed into serious doubt by the ninth circuit's decision in Newdow II;

Whereas the ninth circuit's interpretation of the first amendment in Newdow II is clearly inconsistent with the Founders' vision of the establishment clause and the free exercise clause of the first amendment, Supreme Court precedent interpreting the first amendment, and any reasonable interpretation of the first amendment;

Whereas this decision places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District (980 F.2d 437; 7th Cir. 1992), held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance to the Flag in public schools does not violate the establishment clause of the first amendment;

Whereas Congress has consistently supported the Pledge of Allegiance to the Flag by starting each session with its recitation;

Whereas the House of Representatives reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting House Resolution 459 on June 26, 2002, by a vote of 416–3; and

Whereas the Senate reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting Senate Resolution 292 on June 26, 2002, by a vote of 99–0: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that—

(1) the phrase ''one Nation, under God,'' in the Pledge of Allegiance to the Flag reflects that religious faith was central to the Founding Fathers and thus to the founding of the Nation;

(2) the recitation of the Pledge of Allegiance to the Flag, including the phrase, ''one Nation, under God,'' is a patriotic act, not an act or statement of religious faith or belief;

(3) the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance to the Flag and the practice of voluntarily reciting the pledge in public school classrooms should not only continue but should be encouraged by the policies of Congress, the various States, municipalities, and public school officials;

(4) despite being the school district where the legal challenge to the pledge originated, the Elk Grove Unified School District in Elk Grove, California, should be recognized and commended for their continued support of the Pledge of Allegiance to the Flag;

(5) the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress has created a split among the circuit courts, and is inconsistent with the Supreme Court's interpretation of the first amendment, which indicates that the voluntary recitation of the pledge and similar patriotic expressions is consistent with the first amendment;

(6) the Attorney General should appeal the ruling in Newdow v. United States Congress, and the Supreme Court should review this ruling in order to correct this constitutionally infirm and historically incorrect holding; and

(7) the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 132.

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

There was no objection.

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

Mr. Speaker, today we will consider House Resolution 132, which expresses the sense of the House of Representatives that the Ninth Circuit Court of Appeals' recent ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and urges the Attorney General to appeal its decision.

We are here today because the United States Court of Appeals for the Ninth Circuit continues to get it wrong.

On February 28, 2003, as our country continued preparations for what is now an impending war to defend the values upon which our great Nation is founded, the Ninth Circuit refused to rehear the case of Newdow v. U.S. Congress. In Newdow, a three-judge panel of the Ninth Circuit Court of Appeals ruled that the voluntary, voluntary recitation of the Pledge of Allegiance by public school students violates the first amendment because it includes the phrase ''one Nation under God.'' In addition, on February 28, the three-judge panel amended its June 2002 ruling and held that the Elk Grove, California, school district policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the Pledge and, thus, violates the Establishment Clause of the first amendment.

This second preposterous ruling by the most-often reversed appellate court in the Nation impels us to come to the House floor again to voice our profound disagreement. House Resolution 132 expresses the sense of the House that the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance and that the Ninth Circuit Court of Appeals ruling in Newdow v. U.S. Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It also urges the Attorney General of the United States to repeal the Ninth Circuit's ruling and urges the President to nominate and the Senate to confirm Federal circuit court judges who will interpret the Constitution consistent with the Constitution's text. House Resolution 132 also encourages school districts across the Nation to continue reciting the Pledge daily and praises the Elk Grove School District for its defense of the Pledge of Allegiance against this specious constitutional challenge.

Since the Pledge of Allegiance is not a prayer nor a statement of religious faith, the recitation of the Pledge is not a religious exercise. Rather, it is a patriotic exercise in which one expresses support for the United States of America and pledges allegiance to the flag, the principles for which the flag stands, and to the Nation. To conclude otherwise is to ignore clear precedent from the Supreme Court.

If this latest ruling is allowed to stand, schoolchildren at every public school in nine States, a total of 9,600,000 students, will be prohibited from reciting the pledge. Furthermore, the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents such as the Declaration of Independence, the Constitution, and the Gettysburg Address has been placed into serious doubt. When one considers how this decision distorts Establishment Clause jurisprudence, the importance of appointing judges who will interpret the Constitution consistent with its text becomes clear.

Congress has consistently supported the Pledge of Allegiance by starting each session of the House with its recitation. The House reaffirmed its support for the Pledge when, on June 27, 2002, it adopted House Resolution 459, which I introduced, by a vote of 416 to three. The House should do the same with House Resolution 132 today.

I am proud to serve as an original cosponsor of this measure, and I urge my colleagues to support it.

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

□ 1145

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

Mr. Speaker, judges certainly should not be immune from criticism. I mean, healthy debate on the merits of judicial decisions is an important feature of our democracy. But there is a difference between legitimate criticism and overt pressure that threatens judicial independence.

Like all Americans, Members of Congress are free to criticize judicial decisions with which we disagree. Our collective voice should be heard on matters of profound constitutional significance as we, too, are guardians of the Constitution. In fact, I joined most of my colleagues in voting for a resolution during the last Congress that was referenced by the chairman that expressed disapproval of this very decision on the Pledge of Allegiance and urged that it be overturned.

However, I intend to vote present on this current resolution because it does not stop at expressing disapproval; it goes further, in a way that I believe would set an unwise and dangerous precedent.

It is one thing to urge the judicial branch to use the normal process of appellate review to correct an erroneous decision. It is quite another to imply that judges who issue unpopular decisions in particular cases are unfit for office.

Unfortunately, that is what H.R. 132 does. It not only expresses disapproval of the court's reasoning in the Newdow case, but it states that the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

By linking future nominations to a particular ruling with which the proponents disagree, the resolution sends a not-so-subtle message to sitting judges, and in particular to potential nominees, that they had better tailor their constitutional views to those of the congressional majority if they wish to be confirmed. That, I submit, goes far beyond our appropriate constitutional role.

The Framers of the Constitution recognized that an independent judicial branch is an essential guarantor of liberty in any democracy. To understand this, one need only observe those nations with a weak judiciary that is subservient to the political branches. Invariably such nations are democracies in name only. Those who profess fidelity to the Constitution must take

great care not to chip away at the independence of the judiciary on which our liberty depends. For that reason, this resolution ought to be rejected.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, our Nation was founded on the idea of freedom of religion, the freedom to believe, the freedom to pray, the freedom to worship any time, anywhere. Today more than ever the people of our Nation need to have faith, a religion, a belief.

James Madison stated in 1825 that ''The belief in God All Powerful, wise and good, is so essential to the moral order of the world and to the happiness of man that arguments which enforce it cannot be drawn from too many sources nor adapted with too much solicitude to the different characters and capacities impressed with it.''

I believe Madison's statement is accurate, and we as a people should maintain this strong sense of values. We in Congress should do our part by protecting what our forefathers built this Nation on. We should do that today by passing H.R. 132.

Mr. DELAHUNT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this resolution. I rise in opposition because it is wrong in its principles, it is wrong on the stated findings, it is wrong on its facts. Let me just go through them.

First of all, people may very well, everybody has the freedom to disagree with a court decision. All of us have the right to get up and say that. I do not think it is the role of Congress to say that a court decision is wrong. If we disagree as a body with a court decision, then pass a law if it is a question of statutory interpretation, or propose a constitutional amendment if it is a question of constitutional interpretation. That is our role.

The role of the judiciary is, to quote Chief Justice Marshall, to say what the law is. They say what the law is, and we say what the law should be. It is not our role to tell the court it is wrong; it is our role to change the law if we think so. To pass a resolution which has no power except perhaps the power to intimidate judges is wrong and a violation of our constitutional role.

Secondly, this states as fact that recitation of the Pledge of Allegiance to the flag, including the phrase ''one Nation under God,'' is a patriotic act, not an act or statement of religious faith or belief. It certainly is a patriotic act, but it certainly is a statement of religious faith and belief when you say ''one Nation under God.''

The only way you can get around that conclusion is to say, as the dissenting opinion in the court said, that the phrase ''under God'' is minor, it is de minimis, it does not mean anything. But that is a sacrilege. Since when is God minor? Are we really going to say in this Chamber that God is minor; that belief in God is a minor question, so minor as to not to be worthy of notice?

That is the only ground on which we could say that asking schoolchildren, in the context of a group recitation of a pledge in a classroom, is not a prayer and an affirmation of belief and a religious conviction. To say that God is minor and ''under God'' means nothing, I do not think we want to say that. I certainly hope we do not want to say that. Yet, if we say it means something, then the Pledge of Allegiance with that phrase in it is a statement of a religious belief, or at least a statement of a belief in God.

There are religions in this country, Shintoism, Hinduism, that do not believe in one God. There are people who are atheists. It is factually a wrong statement. It says, as a statement of fact, that the court's ruling in this case is inconsistent with the Supreme Court's interpretation of the first amendment. That is demonstrably wrong, and the Supreme Court will say so.

First, the Supreme Court for the last 40 years in its jurisprudence on school prayers has said that we cannot ask schoolchildren to recite a prayer or a belief in God in the classroom setting, even if we allow the dissenters to walk out of the room; but that is exactly what asking them to say the Pledge of Allegiance with that phrase ''under God'' is. It is exactly consistent with the Supreme Court's last 40 years of jurisprudence and rulings on the school prayer cases. It is, in effect, the school prayer, that as long as you ask schoolchildren to say ''one Nation under God.'' It has all the same pros and cons; and many disagree with the Supreme Court's decisions, but those were its decisions.

In the name of religious liberty, in the name of the separation of powers, in the name of religion, to say that God is not minor, we ought not to pass this resolution and let the Supreme Court uphold or overturn the Court of Appeals decision in Newdow. After that we can worry about a constitutional amendment, which I would propose, and some Members may want to propose. But at this point it is not our function to be correcting a court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise in support of House Resolution 132 expressing the sense of the House that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It is clear that the ninth circuit's amended Newdow ruling contradicts any reasonable interpretation of the first amendment. In a long line of cases, the Supreme Court has interpreted the establishment clause as prohibiting not only compelled participation in religious activity in public schools, but even voluntary religious devotional activity if, under the circumstances, children feel coerced to participate.

These cases, however, were based upon the fact that the activity at issue involved compelled participation in prayers and devotional exercises, as in the cases of School District of Abington Township v. Schemp and Engle v. Vitale; or the practice of graduation prayers at issue in Lee v. Weisman.

In fact, the questionable activity in these cases occurred either just before or just after the recitation of the Pledge. In its review of these cases, however, the court not only failed to question the practice of the voluntary recitation of the Pledge by schoolchildren, but instead explicitly limited its holding to the prayer or devotional exercise.

To have applied these cases to the facts in the Newdow case was incorrect because the Pledge is clearly not a religious statement or prayer; thus, its recitation is not a religious exercise. It is a historical fact that our Nation's founding principles were based upon the Founding Fathers' deeply held religious views. The Pledge of Allegiance simply refers to this fact.

The reasoning and holding of the ninth circuit in Newdow turns historical fact, as well as Supreme Court precedent, on its head. Either the judges were incapable or were unwilling to make this distinction.

Those who do not share the beliefs expressed in the Pledge or those who do not wish to pledge allegiance to the flag have a right to refrain from its recitation. This was recognized by the Supreme Court in the 1943 case of West Virginia Board of Education v. Barnett, in which the mandatory recitation of the Pledge of Allegiance was held unconstitutional under the first amendment's free speech clause.

Indeed, it is a cornerstone of the religious faith that the Founding Fathers held dear that no man can force another to say or believe that which their conscience will not allow. I would hope that no court would issue a ruling that tramples upon this right. However, the ninth circuit in Newdow simply ignored Supreme Court precedent and essentially gave those who do not wish to recite the Pledge, and who possess the right to refrain from reciting the Pledge, a heckler's veto over those who do wish to recite the Pledge.

This ruling also places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District, held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance in public schools does not violate the establishment clause of the first amendment.

I believe that this clearly incorrect first amendment interpretation, as well as the split in the circuits created by the Newdow ruling, warrants an appeal by the Attorney General and Supreme Court review.

I urge my colleagues to approve this resolution so, during this time of international conflict in which our young men and women may be hours away from going to war to fight for those values based upon which our Founding Fathers gave birth to this very Nation, our youngest Americans, our children, may pledge their allegiance to those same values.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson who wrote the Virginia statute for religious freedom which precedes the first amendment to our Constitution.

House Resolution 132 is totally gratuitous, as it will do nothing to change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by resolution. If the judicial branch ultimately finds the Pledge or the motto to be constitutional, then nothing needs to be done; on the other hand, if the Court ultimately finds it to be unconstitutional, then no law that we pass can change that.

Mr. Speaker, I believe the reasoning of the majority opinion in the case was sound. In the case, the appellate court applied three different tests which have been applied in the last 50 years in Supreme Court jurisprudence in evaluating establishment clause cases. One test was whether the phrase ''under God'' in the Pledge constitutes an endorsement of religion. The majority opinion says that it was an endorsement of one view of religion, monotheism, and therefore was an unconstitutional endorsement.

□ 1200

Another test was whether individuals were coerced into being exposed to a religious message, and the majority concluded that the Pledge was unconstitutional because young children who are compelled to attend school ''may not be placed in the dilemma of either participating in a religious ceremony or protesting.''

Finally, the court applied the Lemon test, part of which holds that a law violates the Establishment Clause if it has no secular or nonreligious purpose. For example, cases involving a moment of public silence in public schools, some of those laws have been upheld if the law allows silent prayer as one of many activities which can be done in silence; but courts have stricken laws in which a moment of silent prayer is added to existing moments of silence because that law has no secular purpose.

The court concluded, if the 1954 law, which added ''under God'' to the existing Pledge, had no secular purpose, it was, therefore, unconstitutional.

It is interesting to note the reasoning of the dissent in the Newdow case. The important operative language in the dissent was the following: ''Legal world abstractions and ruminations aside, when all is said and done, the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule to be de minimis. The danger that the phrase represents to our first amendment's freedoms is picayune at best.''

Unfortunately, Mr. Speaker, our actions in enacting H. Res. 132 may cause the courts to review the sentiments behind ''one Nation, under God'' because, if the courts look at the importance we apparently affix to the phrase by passing yet another resolution before the judicial branch has even entered final judgment, this attention diminishes the argument that the phrase has de minimis meaning and increases the constitutional vulnerability of the use of that phrase in the Pledge. While one Federal appeals court rejected a call to rehear the controversial ruling that struck down the recitation of the Pledge due to its religious content, the fact remains that this issue is still alive and well; and every resolution we pass chips away at the de minimis argument.

Furthermore, Mr. Speaker, the court may look at this very resolution, understand the Lemon test, and find that today's exercise has no secular purpose and, therefore, adds to the constitutional vulnerability of the Pledge.

Finally, Mr. Speaker, to quote from an editorial that appeared in the Christian Century, a nondenominational Protestant weekly, puts this matter in perspective: ''To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit. The government should not link religion and patriotism.''

Mr. Speaker, for those reasons I believe we should reject this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. OSE), who represents the area that includes the Elk Grove Unified School District, which is the district from which this case arose.

Mr. OSE. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, the U.S. Ninth Circuit Court of Appeals recently declared it is unconstitutional to say the Pledge of Allegiance, our national recitation and proclamation of patriotism. This ruling is an attack on the history of our Nation and on the display of our patriotic pride.

On Friday, February 28, 2003, the Ninth Circuit Court of Appeals upheld its ruling on Newdow v. U.S. Congress. In its decision, the court declared the phrase ''one Nation, under God'' to infringe on the Establishment Clause of the first amendment and is therefore unconstitutional to recite within our public schools. This issue hits especially close to home because Newdow v. U.S. Congress originated in the Elk Grove Unified School District, which is located in my district in California.

I would like to recognize the school district for its participation in defending our right to say the Pledge. As the party named in the lawsuit, they have shouldered the burden and the cost for standing up for our community and our Nation. Elk Grove Unified has not waivered in their support of the Pledge of Allegiance and remains an example of true patriotism.

In response to the court's ruling, I authored this resolution reaffirming that the Pledge of Allegiance in its entirety is appropriate and calling upon the Supreme Court to review this ruling in order to correct this infirm and historically incorrect decision. The Ninth Circuit is quite plainly wrong and has failed to represent the values of the people of California and the United States of America.

The origin of this phrase is rumored to have come from a speech delivered on a cold fall day in the aftermath of the one of the bloodiest battles in American history. On November 19, 1863, President Lincoln delivered his famous Gettysburg Address while overlooking the massive graves of the soldiers who died there during that famous battle and said the following:

''It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation, under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the Earth.''

Mr. Speaker, there is no better time than today, given the circumstances of our efforts to protect our homeland, that we rise to honor the men and women of the military and reaffirm our patriotism to this great Nation across all generations.

I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and his staff for their assistance on this resolution, for bringing it to the floor in such a timely manner, and I urge Members to support the resolution.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. DELAHUNT), particularly for the leadership that he has given on a number of

key issues dealing with the distinctive responsibilities of the three branches of government. H. Res. 132 challenges that interrelatedness and the constitutional structure of the judiciary, the executive, and the legislature. But, Mr. Speaker, I am not going to quarrel with that because as Members of Congress we are designated to represent the people of the United States and to come to voice those expressions. We do so in a tool called a resolution, congressional resolutions. This happens to be H. Res. 132.

Just as I am going to enthusiastically vote for the armed services tax relief that was just recently debated on the floor of the House, gratified of course that it has been eliminated from the baggage of gambling extras, benefits that were given to gamblers, I am likewise going to vote for H. Res. 132.

Mr. Speaker, let me share with you I believe an analysis that for some may hold water. The first amendment guarantees freedom of expression and freedom of religion. To date now this Pledge of Allegiance is a voluntary act that Americans choose to do, voluntarily in places of worship, voluntarily in this Congress, voluntarily in schools; and it should remain that. There is language in here to suggest that we encourage schools to do so. I want the CONGRESSIONAL RECORD to reflect that this is voluntary and no one should be forced to say the Pledge.

But if you do say the Pledge, then I believe out of your freedom of expression and freedom of religion you have every right to say ''under God.'' And for those who desire not to say it, they have every right not to say it.

Equally, I would argue with the proponent legislative listing of irrelevant aspects of this resolution, and that is to suggest that there may be, as we discussed in the Committee on the Judiciary, some litmus test for judges. The President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text. An interesting benign statement maybe, but irrelevant. Because the courts will do as they desire to do because that is an independent, free branch of government that we should reflect.

Interestingly enough, Mr. Speaker, as we are taking up H. Res. 132, I filed the first day H. Con. Res. 2, to repeal the Iraqi resolution, so that this Congress would not be deadly silent on the question of war. I intend to file today a resolution that will restate the constitutional premise that this Congress has the sole authority to debate the question of war.

It is interesting how my colleagues are selective in what resolutions can come to the floor, constitutional questions, commentary on the acts of other branches of governments. And I believe if we are to be fair and honest in this House, if we are to be truly the people's House, just as I can come to the floor and support this resolution because I believe the first amendment protects it, and I proudly pledge allegiance to the Flag with the language ''under God'' even though we have separate branches of government, it seems patently, if you will, disingenuous, and as well hypocritical, for us not to be able to debate questions, constitutional questions that deal with the issue of war. Not that we will be all of one mind. I respect that, Mr. Speaker, because this is a democracy. But certainly as the Prime Minister of England can go to the Parliament on this very somber question, then we can too, Mr. Speaker. We can unshackle ourselves from the fear of disagreeing with each other, and lo and behold we can unshackle ourselves from any commentary that anyone who opposes the particular option that has been chosen, I believe, should be the last option of war is in any way unpatriotic or is in any way not supporting the brave young men and women in the front lines allowing us to be here today.

We know that we are facing troubling times, and we will do it united as a Nation. But it speaks little of what we are fighting for if we cannot come again to the floor of the House and express either our support or our opposition to the question of the option of war being the only option.

I believe, Mr. Speaker, there are many options. There is a third option that we can engage in from putting troops at the front lines, U.N. inspections and indicting Saddam Hussein. But as I rise to support H. Res. 132, let me say, Mr. Speaker, I do it proudly; but I also ask this House to be able to debate a question that will deal with the lives of young men and women and it will be a question of life or death and war or peace.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS) to get back to debating the Pledge of Allegiance and the Newdow ruling.

Mr. LUCAS of Oklahoma. Mr. Speaker, today I rise in support of this resolution and in support of the Pledge of Allegiance.

I believe children in schools across America should start their day in the same way we do here on the floor of the United States House of Representatives, by reciting the Pledge of Allegiance.

Mr. Speaker, the Ninth Circuit's decision is outrageous and has set a dangerous precedent that we cannot allow to continue nationwide. I know of no better way to educate our children about the beliefs we stand for in this great Nation of ours than with the Pledge of Allegiance. The Pledge is an important way of educating our children about the value of patriotism, democracy, a reminder that we are one Nation under God. That is why I believe we need to keep the Pledge in our schools, and as my constituents in Oklahoma would say, keep the judges who do not value the Pledge out of our courts.

Mr. Speaker, my constituents are dumbfounded and angered by the Ninth Circuit's actions. That is why I have introduced legislation immediately after the court's original ruling last year that would amend the U.S. Constitution to protect the right of schools to lead willing students in the recitation of the Pledge. I have reintroduced my Pledge of Allegiance Protection Amendment in this Congress; and while I know, I believe in my heart that the U.S. Supreme Court will overturn this foolish ruling, I urge my colleagues' support for its passage if the Supreme Court upholds the Ninth Circuit Court's atrocious decision.

Mr. Speaker, again, I support this resolution in support of the Pledge.

Mr. DELAHUNT. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BOOZMAN).

□ 1215

Mr. BOOZMAN. Mr. Speaker, I rise today in support of House Resolution 132. This legislation expresses that the Ninth Circuit Court of Appeals' ruling against the Pledge of Allegiance is inconsistent with the Supreme Court's interpretation of the first amendment.

The Pledge of Allegiance brings together people of different backgrounds in a shared expression of support for our country. Before the start of business in the House of Representatives, my colleagues and I proudly recite the Pledge of Allegiance, just as I proudly said it before every school board meeting back home in my hometown of Rogers, Arkansas.

Our pledge to support our country and the beliefs on which it was founded is an important part of our everyday life. Every time an American turns to the flag to recite the Pledge of Allegiance, they are reminded of all that has been sacrificed in the name of our country and for our freedom.

The U.S. Court of Appeals for the Ninth Circuit outraged people across the country by ruling the phrase ''one Nation under God'' makes the Pledge of Allegiance unconstitutional. It is unbelievable that a Federal court would rule that the Pledge of Allegiance violates our first amendment.

Mr. Speaker, perhaps now more than ever the need for the unity in America exists. I commend the gentleman from California (Mr. OSE) for bringing this legislation before us, and I urge my colleagues to vote in favor of House Resolution 132.

Mr. STEARNS. Mr. Speaker, unfortunately, in an arrogant stunt, last summer, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it ''impermissibly takes a position with respect to the purely religious question of the existence and identity of God,'' and places children in the ''untenable position of choosing between participating in an exercise with religious content or protesting.'' This is an obvious instance of political correctness taken to an absurd extreme.

This court clearly shows that it is out of step with the will of the American people, the U.S. Congress, and traditional American values. Religious expression is the fundamental basis of our freedom in this country. At the earliest moment in this nation's history, the pilgrims signed The Mayflower Compact that declared that the voyage across the Atlantic was taken ''for the Glory of God'' and still today, the Ten Commandments are publicly displayed in the National Archives. In this Nation we have ''In God We Trust'' on our money, and each day the House of Representatives starts its day be reciting the Pledge of Allegiance. We will continue to do so despite the folly of the 9th Circuit Court.

Mr. FEENEY. Mr. Speaker, I thank you for the opportunity to revise and extend my remarks and submit them into the CONGRESSIONAL RECORD.

I rise in support of H. Res. 132. Fellow Members, in this time of war, I think it is more important than ever to be able to express our patriotic and religious views together in unity and solemnity. The Pledge of Allegiance is a beautiful manifest of the feelings of Americans. We are a religious people. We always have been. America has been such since our inception. Granted, we are a people of diverse religious backgrounds, but being able to express our faith in public without fear of government condemnation or censure is without a doubt, the reason why you and I are standing here today. The desire for religious liberty was what brought the first groups of Americans to our country hundreds of years ago to build this shining ''city upon a hill.''

Members, I stand in support of the Pledge of Allegiance as did this great body on Flag Day 1954 when the words ''Under God'' were added. As President Eisenhower, who supported this change, so eloquently stated, ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.'' Eisenhower's words could not be more accurate or more timely. Americans' religious beliefs reach to the core of our being. It is in both times of uncertainty and turmoil, prosperity and blessing that we cling to our beliefs for direction, comfort, guidance and peace. To deny Americans the right to stand together and say the Pledge of Allegiance is to deny the spirit behind the Mayflower Compact, Patrick Henry's great Liberty Speech, the Declaration of Independence, the Gettysburg Address, and all of the other documents that serve as a mission statement of our people.

Members, in this time of war I urge you to support H. Res. 132 to defend the Pledge of Allegiance as a fitting and constitutional written expression for all Americans.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of H. Res. 132, a resolution that expresses Congress's disapproval of the recent 9th Circuit Court of Appeals decision that held that a public school's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance impermissibly coerced a religious act.

A State sponsored religion is unconstitutional, but there is nothing in our founding documents that requires the removal of every reference to God from the public square. Most Americans can make this distinction, which explains the public outcry to the 9th Circuit's misguided decisions.

The faith of our founding fathers was central to the establishment of our Nation and there are references to God in countless public forums. The Declaration of Independence declares that ''all men are Created equal, endowed by their creator with certain unalienable rights.'' The Supreme Court begins each session with the blessing ''God save the United States and this honorable court.'' Congress opens each day with a prayer, through which we seek divine guidance for the tasks before us. Our currency bears the slogan ''In God We Trust.''

The Pledge of Allegiance is an important affirmation of both our country's faith and patriotism. With our Nation on the brink of war, we must be vigilant in guarding against efforts to strip away the tradition and powerful public expressions of these key values. Instead, we should emphasize our shared heritage, our commitment to freedom, and our rich tradition of national humility before the ultimate author of our liberty. I urge each of my colleagues to vote in favor of H. Res. 132.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers and am prepared to yield back if the gentleman from Massachusetts will do the same.

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

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

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 132.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 147 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 147

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), my friend and associate, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate on this matter only.

Mr. Speaker, I am exceedingly pleased that tonight we will consider much-needed bankruptcy reform legislation under the direction of a fair and balanced rule that makes a total of five amendments in order, including an amendment in the nature of a substitute sponsored by the gentleman from Michigan (Mr. CONYERS), the ranking member.

I am proud of the tireless and extensive efforts of many Members, including the gentleman from Texas (Mr. SESSIONS), who will be here to address us shortly in the rule on this, and the staff who have put together countless hours toward the passage of this legislation over several years now.

Their efforts allow us to ensure that our bankruptcy laws operate fairly, efficiently and free of abuse. We must end the days when debtors who were able to repay some portion of their debts are allowed to game the system. This bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses by those who can pay their bills.

Congress has spoken on this issue many times before. As we all know, the 105th, the 106th, the 107th Congresses passed legislation addressing bankruptcy reform. In the 105th, the conference report passed the House, but time expired before the Senate voted on a final passage. In the 106th, the conference report received overwhelming bipartisan support in both Chambers; however, President Clinton chose to pocket veto the bill. In the 107th Congress, we came extremely close to final passage of a conference report, but in the end could not finally agree.

So, today, due to the outstanding work and leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER), his committee and so many Members, we have the historic opportunity to make modern bankruptcy reform a reality.

As we debate and vote today, we should keep in mind two important tenets of bankruptcy reform. First, the bankruptcy system should provide the amount of debt relief that an individual needs, no more, no less. Bankruptcy should be a last resort and not a first response to a financial crisis.

One important part of this legislation is known as the homestead provision. Protection of one's homestead is something that is very important to me and, of course, to all my constituents, and to any Member and all their constituents. The homestead provision in this legislation maintains the long-held standard that allows the States to decide if homesteads should be protected, yet prohibits those who would purchase a home before filing bankruptcy as a means to evade creditors.

By tightening our current laws and making it more difficult to escape fraud by declaring bankruptcy, we are expressing no tolerance for those who would game the system to make up for their wrongdoing.

Modern bankruptcy reform has been a long and somewhat arduous journey. It makes the most anticipated result of our work today even more rewarding. It has required not only hard work, but also some difficult decisions on the part of Congress as we know. The result is what I believe to be a carefully balanced package that protects the women, children, family farmers, low-income individuals, and provides access to bankruptcy for all Americans who have a legitimate need.

Today's vote I believe will finally make modern bankruptcy reform a reality, and, Mr. Speaker, I urge my colleagues to vote with me to support this fair rule and the underlying legislation which is long overdue.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SESSIONS) for the purposes of control.

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

There was no objection.

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

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes.

Mr. Speaker, this bill purports to improve the Bankruptcy Code by ensuring fairness for debtors and creditors. Unfortunately, this bill envisions fairness as choosing credit card companies over people in dire financial situations. This bill attempts to solve a complex problem with an oversimplified, one-size-fits-all solution when the problem really requires a sophisticated solution.

The rhetoric around H.R. 975 paints a vivid picture of scheming people running up huge debts, buying extravagant houses and expensive cars just before they run to a local bankruptcy court to avoid paying their bills, but the reality is that only 3 percent of the people who file for bankruptcy are these kinds of cheaters.

In order to stop the 3 percent who abuse the system, the bill takes the dramatic sweeping step of harming the 97 percent of people who are forced to seek protection under the Bankruptcy Code because of illnesses, unemployment or divorce. In fact, nearly half the people who file for bankruptcy protection do so because of medical bills and the financial consequences of illness or injury.

Middle-class families are only one serious illness away from financial collapse, and the impact of medical cost is highest on women, families headed by women and older people.

Mr. Speaker, one of the most forceful and persistent proponents of changing the Federal Bankruptcy Code is the credit card industry. We all know that credit card companies send us solicitations by the boatload. They mailed 5 billion of them in 2001. Each of us get three or four a day. They flood the mailboxes with credit card offers and encourage debt, and it is very hard to sympathize with these companies. They are actively, actively creating the problems that they now want this body to fix for them.

Why does this legislation do nothing to address the culpability of credit card companies in the growing numbers of bankruptcies? Nothing in this legislation requires credit card companies to provide adequate information to consumers about the costs of credit. Nothing in the bill addresses the industry's aggressive marketing of credit to students and to young teenagers. Nothing in this bill deals with predatory mortgage loans or the high costs of so-called payday loans.

Douglas Lustig, a bankruptcy attorney in my hometown of Rochester, New York, says that people are not abusing credit cards for extravagances. Rather, he says, most people use credit cards out of necessity. People are forced to use their credit cards to buy food or pay for rent until they get through difficult economic times, and what really breaks my heart is that as unemployment rates rise, this Congress has failed to extend the unemployment benefits in so many households. This is the only recourse that they have. Then if something awful happens to them, and the wife is laid off or the husband diagnosed with cancer, the family then is totally unable to meet its financial burdens, and this bill chooses to make sure that the credit card companies get paid instead of protecting the families and helping them dig out of financial collapse.

What do bankruptcy judges think about this legislation? Judge A. Thomas Small, who recently served as president of the National Conference of Bankruptcy Judges and now is chairing the Federal Bankruptcy Rules Committee, sees problems. He says this measure will fail to block needless bankruptcy cases while making it a lot harder for people who really need bankruptcy relief to get it.

Despite the many years that bankruptcy reform has been discussed by this body, many serious problems persist in this legislation. The rule before this body gags us and limits our right to speak fully about the significant legislation and its real-world effects. Republicans in the House Committee on Rules blocked the consideration of six substantive amendments to this bill. This body has the right to discuss them, to deliberate and to consider the changes they offer.

One amendment would protect the Active Duty members of the Armed Forces, unemployed people who have exhausted their benefits, and victims of terrorism. Another would have prohibited credit card companies from issuing cards to people under the age of 21. A third amendment would place a $125,000 national cap on the homestead exemption without any of the exceptions allowed in the underlying bill. Still another would place reasonable limits on exorbitant retention bonuses, the severance package and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy. A fifth amendment would crack down on the predatory lending practice known as payday lending.

An amendment offered by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and myself would give bankruptcy courts the discretion to provide extra protection for people entitled to alimony or child support, a piece of legislation that we put in back in the days when Jack Brooks was chair of the Committee on the Judiciary. Many of us worked very hard at that time to make sure that child support was the first thing that a spouse had to or person who was paying the

support had to discharge. That has changed now.

□ 1230

The reform legislation elevates the credit card companies to the same categories of child support. Mothers and fathers who are trying to get money for food and clothes for their children will have to compete with the major credit card companies with their legions of lawyers and sophisticated collection departments for the same few dollars.

Mr. Speaker, I will enter this list of amendments left on the floor of the room of the Committee on Rules into the RECORD.

Mr. Speaker, H.R. 975 even fails to hold perpetrators of violence against women's health care clinics accountable for their actions. As part of a coordinated strategy, perpetrators of clinic violence have filed for bankruptcy to avoid paying judgments against them for violation of Federal law. This bill will allow them to discharge these judgments and get away with breaking Federal law and trampling the constitutional rights of women.

This rule and this legislation fail the American people. Years of consideration have not produced bankruptcy reform that the American people deserve, reform that fixes the current problems with a system without causing significantly more harm than this prevents.

Mr. Speaker, we should produce legislation that strikes a balance between risk-taking and responsibility and shelters that 97 percent who deserve the Federal protection. I urge Members to vote against this rule and against H.R. 975.

The previously mentioned list of amendments follows:

AMENDMENTS REJECTED BY THE HOUSE RULES COMMITTEE DURING CONSIDERATION OF H. RES. 147, THE RULE GOVERNING DEBATE ON H.R. 975, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Amendment No. 5 Offered by Representative Delahunt—the amendment places a $125,000 national cap on the homestead exemption, without any of the exceptions allowed in the underlying bill.

Amendment No. 6 Offered by Representative Delahunt—the amendment places reasonable limits on exorbitant ''retention bonuses,'' severance packages, and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy.

Amendment No. 8 Offered by Representative Jackson-Lee—the amendment cracks down on the predatory lending practice known as ''payday lending.''

Amendment No. 9 Offered by Representative Waters—the amendment prohibits credit card companies from issuing cards to people under 21 years of age.

Amendment No. 10 Offered by Representative Schakowsky—the amendment excludes unemployed people who have exhausted their benefits, active duty members of the armed forces, and victims of terrorism from the bill's means test provisions.

Amendment No. 11 Offered by Representatives Conyers, Slaughter, and Jackson-Lee—the amendment gives courts the discretion to disapprove an agreement or the discharge of a debt if it would impair a debtor's ability to pay alimony or child support.

Open Rule Motion Offered by Representative Frost—on a party-line vote of 3–9, the Committee rejected Mr. Frost's motion that the House consider H.R. 975 under an open rule, which would have allowed the House to debate all of the amendments Members brought before the Committee.

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

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

Mr. Speaker, we are talking about bankruptcy today again. We have done this four times. This rule will pass because it is a fair rule. The underlying legislation will pass overwhelmingly because it is great legislation that the American people not only asked for but want. It will help streamline and make better the bankruptcy procedures that are necessary as our courts deal with them, and as people who have gotten into financial trouble deal with the old legislation and find out what a problem it is.

I am proud to be here today to talk about good legislation that is good for the American public, it is good for consumers, and I am very proud of what we are doing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this fair rule and the underlying legislation, H.R. 975. H. Res. 147 is a fair and responsible rule that will allow the House to work its will on the underlying bankruptcy reform bill. It makes in order two amendments sponsored by Democrats, two bipartisan amendments, and an amendment in the nature of a substitute offered by the ranking minority member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS). I urge Members on both sides of the aisle to join me in approving this rule so we can move on to H.R. 975, important bankruptcy reform legislation.

I support providing this bankruptcy protection. I believe that American citizens should be able to gain a fresh start after finding themselves incapable of meeting their obligations. In fact, our Nation has historically understood the importance of providing this protection.

As one individual put it during the congressional debate in the late 19th century, ''When an honest man is hopelessly down financially, nothing is gained for the public by keeping him down; but on the contrary, the public good will be promoted by having his assets distributed ratably as far as they will go among his creditors and letting him start anew.''

Today we debate the reform of U.S. bankruptcy law one more time. We should focus on how to ensure that bankruptcy laws follow their intended design, while working to derail the growing trend of using bankruptcy as a means for avoiding the payment of debts, even when those debtors are financially capable of paying off those debts. The question before us is, How can we prevent individuals abusing these protections, while ensuring that bankruptcy relief remains available for those who truly need it?

In 1787, the Founders of this country, some of whom were debtors themselves, recognized the necessity for providing leniency to individuals who are faced with increasing debts. The Founders understood that it was impossible for debtors to work towards paying off their debts while sitting in debtors' prison. I do not, however, believe the Founders would have approved of a system where bankruptcies have increased more than 400 percent in 23 years and represent a cost of $400 to every American family who works hard to meet its own financial responsibilities.

H.R. 975 works both to continue the Founders' vision for bankruptcy protection while curbing the abuses that have plagued the system over the past few decades. Congress should not be in the business of protecting those who wish to use bankruptcy as a financial planning tool, while penalizing hard-working Americans who fall into financial difficulties.

Last year, almost 1.6 million bankruptcy cases were filed in this country. We must ensure that this number is significantly reduced in the future. It is not shameful to file for bankruptcy if one falls on hard times. It is, however, shameful to use bankruptcy as a means of paying one's obligations.

As such, I urge Members to join me in supporting both this rule and the underlying legislation to help restore the legitimacy of this protective tool and to bring commonsense reasoning back to American bankruptcy law. I urge Members to join me in voting for the rule and H.R. 975.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, two amendments rejected by the Committee on Rules which I had hoped to offer illustrate the double standards represented by this bill because wealthy debtors with their lawyers and financial advisors can continue to game the system, and corporate insiders who have managed healthy businesses into bankruptcy can still be awarded with golden parachutes. Meanwhile, people of modest means will be denied a genuine fresh start, and retirees whose pensions and life savings have been wiped out by corporate bankruptcies will get little relief.

My first amendment would have placed reasonable limits on exorbitant retention bonuses, obscene severance

packages, and other outlandish payments to corporate insiders whose companies are bankrupt or insolvent; and the amendment would have reserved those assets for the benefit of employees, retirees, and other creditors.

In the State of Massachusetts, Polaroid executives canceled their retirees' health coverage days before filing for bankruptcy and then terminated workers on long-term disability when the company reorganized. At the same time they awarded themselves more than $5 million in various bonuses and incentive payments shortly before filing for bankruptcy and then another $6 million in so-called retention bonuses afterwards.

Of course, this pales in comparison to Enron, where their CEO, Kenneth Lay, received gross profits of $247 million, or Global Crossing where Gary Winnick, their CEO, grossed $512 million, all the while eliminating thousands of jobs and driving their companies into bankruptcy.

My second amendment would have helped eliminate the most notorious abuse of all, the financial planning strategy whereby debtors purchase expensive homes in States with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing, like the convicted Wall Street investment banker who filed bankruptcy while owing some $15 million in debt and fines, but still kept his $5 million mansion complete with 11 bedrooms and 21 bathrooms. Yet while the so-called bankruptcy abuse prevention bill obsesses about whether small debtors can manage to pay $100 a month in Chapter 13, it continues to tolerate this outrageous abuse.

Mr. Speaker, this is not the only exemption that allows the wealthy to shelter their assets. In addition to the million dollar mansion, they can receive a substantial pension, have an IRA up to a million dollars, and own annuities worth additional millions and not worry about it because depending on where they live, these assets are exempt and creditors cannot touch them. This bill does nothing about that.

What message does it send when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? We are creating different classes of debtors, and every fair-minded person should find this unconscionable. This rule should have provided an opportunity to deal with these issues, and I urge my colleagues to oppose the rule and vote down this unfair and one-sided bill.

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to the rule.

The rule fails to allow the House to consider two amendments I had intended to offer to illustrate the double standard represented by this bill: A bill that denies a fresh start to people of modest means while allowing wealthy debtors and corporate insiders to continue to abuse the bankruptcy system.

It was one thing to consider this kind of legislation when our nation was enjoying the prosperity of the 1990s. But this debate takes on a certain surreal quality when we consider the depths of the economic difficulties our country is facing at the moment. With unemployment rising. Growing numbers of working Americans who can't buy health insurance at reasonable rates. Retirees whose pensions and life savings have been wiped out by corporate bankruptcies.

And what are we doing about it? We're helping the credit card companies squeeze a few more pennies out of these same working families. And we're ignoring the massive abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

Some months ago, the Financial Times published an analysis of the profits amassed by top officers and directors of the 25 largest companies to declare bankruptcy during the previous 18 months. According to the report, ''in just three years, they grossed about $3.3 billion before their companies went bust, having wiped out hundreds of billions of dollars of shareholder value and nearly 100,000 jobs.''

And so, as Global Crossing was losing $9.2 billion and eliminating over 5,000 jobs, its chairman, Gary Winnick, grossed $512 million. While Enron lost $18.8 billion and eliminated 5,500 jobs, its CEO, Kenneth Lay, and the chairman of its energy services subsidiary, Lou Pai, made gross profits of $247 million and $270 million, respectively.

The sources of these windfalls included such now-familiar devices as retention bonuses. Severance payments. Forgiven loans. And dividends on holdings of company stock.

In my corner of the world, Polaroid executives cancelled their retirees' health and life insurance coverage and terminated workers on long-term disability—all while awarding themselves more than $5 million in various bonuses and ''incentive'' payments before filing for bankruptcy and another $6 million in retention bonuses afterwards. Officers and directors received severance packages while employee severance was terminated. Officers and directors were able to redeem their company stock while employees, forced to put 8 percent of their salaries into the stock option plan, were prohibited from withdrawing the funds and watched their holdings evaporate. No sooner was the sale of the company completed than the new CEO terminated the retiree pension plan.

What happens to people who lose their livelihood, their savings, and their health coverage? Lots of them wind up unable to pay their debts and forced into bankruptcy. So in fact, we have corporate bankruptcies causing personal bankruptcies. And the only response from Congress has been to push an industry-sponsored bill that would make it harder for these people to get a fresh start. A bill that penalizes the very working families that have been victimized by corporate misconduct, while preserving the loopholes and exemptions that allow corporate insiders to shelter their ill-gotten gains when they declare bankruptcy.

I had sought to offer an amendment that would begin to redress the balance. It would have placed reasonable limits on exorbitant ''retention bonuses,'' severance packages, and other payments to corporate insiders of companies that are bankrupt or insolvent. The amendment would not have prohibited such payments to the extent that they are truly necessary to keep key employees in place. But it would have permitted them only when the court finds that, first, the employee has a bona fide job offer from another business at the same or greater rate of compensation; second, the services provided by the person are essential to the survival of the business; and third, the amount of the payment is not excessive when measured against the amounts paid to nonmanagement employees in the ordinary course of business.

The amendment would have empowered the court to return excessive payments to the bankrupt company, so that these funds can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors. It would have restored some semblance of fairness to this unbalanced bill.

The second amendment I had hoped to offer would have helped eliminate the biggest loophole in the Bankruptcy Code, by placing a meaningful national cap on the homestead exemption.

I say ''meaningful,'' Mr. Speaker, because the $125,000 cap that is currently in the bill is qualified by a series of exemptions that assure that those who engage in flagrant abuse of the bankruptcy system by sheltering homestead assets can continue to do so.

My amendment would have left the cap at $125,000 while eliminating the exemptions for transactions conducted more than 1,215 days preceding the bankruptcy filing and for interests transferred from a debtor's previous principal residence acquired within the same state prior to that time.

The rationale we have been given for the so-called ''needs-based'' reforms proposed in H.R. 975 is to eliminate abuses of the bankruptcy laws—abuses which proponents of the legislation have characterized as the use of the Bankruptcy Code as a ''financial planning tool.''

Yet while the bill obsesses about whether small debtors can manage to pay $100 a month in chapter 13, it continues to permit—indeed, it endorses—the most notorious abuse of the consumer bankruptcy system of all: The ''financial planning'' strategy whereby debtors purchase expensive homes in states with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing.

If we are truly serious about curtailing abuses, it seems to me that this is the place to start. With the owner of the failed Ohio S&L who paid off only a fraction of $300 million in bankruptcy claims while keeping his multi-million-dollar horse ranch in Florida.

Or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines, but still kept his $5 million Florida mansion—complete with 11 bedrooms and 21 baths.

Or the Miami physician with no malpractice insurance, who was named in four separate malpractice actions, filed for bankruptcy protection, and kept a $500,000 home—complete with a 100-foot swimming pool.

Or the movie actor, Burt Reynolds, who declared bankruptcy in 1996, claiming more than $10 million in debt. Reynolds kept a $2.5 million home—appropriately named ''Valhalla''—while his creditors received 20 cents on the dollar.

The situation in Florida has become so notorious that one Miami bankruptcy judge told the New York Times, ''You could shelter the Taj Mahal in this state and no one could do anything about it.''

The sponsors of the bill will claim that they have closed the loophole by putting a cap on the exemption. But the provision is riddled with loopholes that ensure that wealthy debtors who are sophisticated enough to plan ahead will still be able to shelter their assets without ever being subject to the cap. Under the bill, they can purchase a homestead to shelter their non-exempt assets and simply wait the 1,215 days before filing their petition. And the bill expressly permits them to transfer their assets from a previous principal residence into a new one at any time prior to their bankruptcy filing without being subject to the cap, provided that the former residence is located in the same state.

What message does it send, Mr. Speaker, when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? What message does it send when we impose tough repayment plans on working families that are barely making ends meet, while allowing corporate insiders to drive their companies into bankruptcy and pocket millions of dollars in bonuses, severance packages, and other ill-gotten gains?

I urge my colleagues to oppose the rule and vote down this bill.

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

The gentleman from Massachusetts has been a very active player in this process for a very long time, and he speaks very forcefully about all these rich people who utilize the schemes within the bankruptcy law, but then the gentleman failed his own test when he spoke about millionaires because he moved the test down to a household of $125,000, not a house that a millionaire or some rich corporate executive that the gentleman speaks about would want to protect, but where the average American lives, where the average American who would have a chance to lose their own house in the event of bankruptcy, and that is the sad part about this, is that this clamoring, this beating of the drum about corporate executives and corporations and how bad they are for America and all these rich fat cats, and then the other party takes it out on the average person, and they want more. They want to make sure that literally any person who would have a bankruptcy could lose their house.

The Republican Party disagrees; I disagree. I think that people who are Americans who get up and go to work and are hard working would find this really despicable, to take a person's home because they got into trouble. But now we say oh, no, down to $125,000, not the millionaire. So once again we learn the Democratic Party philosophy, and that is anybody who has a job or house is not protected. Oh, up to $125,000 is. I wonder who has those kinds of houses? The answer is millions of Americans, and that is what the other side of the aisle is out after on the floor of the House of Representative again today if one engages in bankruptcy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I rise in support of the rule and the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act.

□ 1245

This legislation reflects many years of effort by both the House and the Senate to enact bankruptcy reform which protects consumers from having to pick up the tab for irresponsible debtors, debtors who are capable of paying off a significant portion of their debts. There are people who truly have a legitimate need to declare bankruptcy. At times hard-working people come up against special circumstances that are beyond their control. Family illness, disability or the loss of a spouse may necessitate the need to seek relief under our bankruptcy laws. This legislation will protect these individuals.

Too frequently, however, individuals who have the financial ability or earning potential to honor their debts are simply seeking an easy way out of repaying those debts. While this may prove convenient for the debtor, it is not fair to their friends or to their neighbors who are ultimately stuck with the bill. Those who can afford to pay their debts must honor their commitments.

The current economic climate necessitates bankruptcy reform now more than ever. Some individuals and small businesses in this Nation are facing severe financial hardship, hardship that may justify the need to file for bankruptcy. As a result, the bankruptcy system must be reformed to ensure that those with a legitimate need are not adversely affected by those who abuse the system.

Mr. Speaker, the hard-working families in my district in Cincinnati, Ohio, pay far more than they ought to in taxes. They do not need to incur an additional burden created by those who seek to hide from their debts. This bill holds those irresponsible debtors accountable and protects those hard-working families. I urge support of this rule, and I urge support of this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me this time.

In response to my colleague and dear friend from Texas, it is not the cap. It is not the cap that disturbs us. The question is, is it a genuine cap, or is it a sham? I suggest that this cap is a sham. There are more loopholes in this particular provision than one can even comprehend. This is not about the individual, the average, middle-class American who earns 25-, 30- or $35,000, but it is about the sophisticated investor, it is about the sophisticated individual who has access to the very best in terms of legal talent and financial advice, who knows how to game the system. We are talking about not $125,000, but about the millions, the millions, that are being prevented from going to legitimate creditors because of this particular exception.

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

The gentleman and I have spoken about this often, as a matter of fact, including in the Committee on the Judiciary. We will still hold on this side of the aisle that if you want to aim at millionaires, then make it to a millionaire level instead of to a middle-class issue, and that is $125,000. I do not get it, and I do not think they do, either. But the American public that loses their home does understand it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. CANNON), a member of the Committee on the Judiciary.

Mr. CANNON. Mr. Speaker, I thank the gentleman from Texas for yielding me the time to talk about this issue.

I would urge support of our Members for this rule and the underlying bill. Over the last three Congresses, the House has passed this bill on six different occasions. We hope that today we can do it for the seventh time. From about the 105th Congress to the present Congress, the House Committee on the Judiciary has held hearings at which more than 130 witnesses have appeared representing nearly every constituency that is affected in the bankruptcy and business community.

H.R. 975 is virtually identical to the bankruptcy reform legislation that the House passed just 4 months ago, which was essentially the bankruptcy conference report, without the so-called Schumer amendment, so we have eliminated that controversy that we had last year. Last year's bankruptcy conference report was the product of nearly a year of extensive negotiations and compromises that were bipartisan and bicameral.

Let me just point out some of the things that this bill does. H.R. 975 consists of a comprehensive package of reform measures pertaining to both consumer and business bankruptcy cases. It improves bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system and by closing loopholes for abuse. It responds to many of the factors contributing to the increase in consumer bankruptcy filings, such as lack of personal financial accountability and ineffective oversight with respect to deterring abuse in the system. It ensures that consumer debtors repay creditors to the maximum that they can afford. It also includes consumer protection reforms that prioritize the payment of spousal and child support, for instance, making sure that the deadbeat parents cannot use bankruptcy to avoid their support

responsibilities. It also protects a debtor's retirement pension and educational IRAs for the debtor's children from the claims of creditors. And it requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will be able to make an informed choice about bankruptcy, its alternatives and its consequences. We find that many people today are taking out bankruptcy and then finding out how brutal it is to have done so after the fact.

We have also touched on many other issues. We help family farmers and fishermen who are facing financial distress. This is a program we have reauthorized several times independently last year. We authorize the creation of 28 additional bankruptcy judgeships. One of the things we do that is really quite important is we reduce the systemic risk in the financial marketplace in this enactment, which Federal Reserve Chairman Greenspan has described as ''extremely important'' for our system today.

In addition to the base bill, we have in the rule a Cannon-Delahunt amendment. If I can speak to that for just a moment, this amendment is identical to H.R. 5525, a bill that our former colleague George Gekas from Pennsylvania introduced in the 107th Congress. This really deals with some of the issues that our colleague from Massachusetts has been pounding on here recently, where we have had Enron, WorldCom, Global Crossing and other corporations that have shown us how bad a company can actually be. This bill would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims that are entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reach-back period for wage claims from 90 days to 180 days.

Secondly, the amendment increases the reach-back period during which fraudulent transfers can be rescinded from 1 year to 2 years and provides that outrageous compensation payments and bonuses and other perks given to a corporation's insiders during the reach-back period which we have now doubled can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

Third, it requires the court to reinstate retiree benefits that a corporate debtor modified within 180 days preceding the bankruptcy filing unless the balance of the equities justifies the modification. This amendment reflects sound bankruptcy policy and will effectuate meaningful reforms.

I hope that the Members of this body will support this rule and the underlying bill and amendment. I would like to thank the gentleman from Massachusetts for working with us on this amendment, which I think is going to be very effective in reaching the core problem of companies and insiders who do illegal, wrongful things and then walk away scot-free with a lot of money. Not only should those people be criminalized, they should be put in jail and their assets taken back and put back in the estate so that employees and creditors can have the benefit of that transaction. I thank the gentleman for his work on this issue.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was very interested in listening to a former speaker cite the concepts of the Founding Fathers. We have been spending a lot of time today utilizing the Constitution, and for this body that is good. Whenever we can attribute part of our debate and reasoning to the Constitution, we are on solid ground. He reminded us of the concept of the debtors' court and the Founding Fathers. Maybe that is all that may be truly accurate in the representation of utilizing the Founding Fathers' purposes.

Yes, they did not want to have a situation where people were victimized by those who did not pay their honest debts. We also know that this country had several States, maybe one in particular, that was founded by exiled or fleeing debtors. Certainly a now prominent member of the United States, meaning the United States family, this State is a thriving, prosperous State today.

All debtors should not be condemned. And the consensus, I believe, that you could interpret the Founding Fathers' concept does not equate to modern times, and that is, the Founding Fathers did not know anything about predatory creditors and usurious rates, interest rates; they did not know that there would be a proliferation of credit cards so that if you were 14 years old, you got a letter; if you were incapacitated in a hospital, they would be soliciting you to get a credit card; or you could be on a college campus barely making ends meet, and they would solicit you for a credit card.

And now this legislation simply puts in documentation individuals who have been preyed upon to get these credit cards now in a situation where we go into the bankruptcy court, we, one, out of this legislation take more discretion away from the judges so that they can ascertain the reasons why you are filing a bankruptcy. You take judicial discretion away from the judges, and you put a means test so that if you have a catastrophic illness, or you are divorced or you are elderly and you lose a loved one, or your spouse and you have fallen upon hard times, there is no way to give discretion to helping you as you file in the bankruptcy court.

Let me assure you that neighbors do not put signs out on the front yard and say, ''I am bankrupt, I have filed bankruptcy, I'm proud of it.'' It is something that we certainly disagree with or are concerned with.

My friends in the credit card industry and the credit union industry have many good points, and to my friends particularly in the credit union industry of which I support enthusiastically and as well, Mr. Speaker, have worked with them and would propose certain aspects to correct their problems, but this legislation fails to protect the parent who needs alimony and child support. It has them grappling and fighting on the ground between high-priced credit card companies, because it dumps all of those particular debts into one pot and has them fighting with each other.

Unfortunately, you can burn up a Planned Parenthood center and hide behind the Bankruptcy Code. I hope that is fixed in the other body.

What we call payday loans, the amendment that I had that we would protect those who, because they have no money, they go to loan sharks on payday, usurious high rates. Their weekly check, they use it, they cannot pay it back, they file bankruptcy, and then those usurious rate people who take advantage of folks who needed an emergency loan at ridiculous rates can go in and press them to pay those ridiculous loans back.

Mr. Speaker, we are not fixing the problem, we are making the problem worse. And how in the world can you expect a single parent, whether it be a mom or dad, to be able to fight equally with the bigshots with a lot of lawyers? When we started this some 4 or 5, 6 years ago, it was noted that the credit card companies paid $40 million in lobbying and campaign contributions to make sure. They are persistent. And here we go again with a big document that does not treat the little guy fairly.

I support the Cannon-Delahunt legislation, and I hope next time we can go even further, because I come from the community where Enron laid off 5,000 employees within 72 hours after they filed bankruptcy and gave out $120 million in bonuses.

What we need to do is to do a step further. I will be offering legislation that makes employees laid off because of the malfeasance of their corporations secured creditors and first in line. And then I will make those who have been laid off, losing their benefits, their health benefits, like a victim in my community who died, because they were getting benefits, they had a catastrophic illness, and because they were laid off by this company, they lost their life.

Mr. Speaker, we can do a better job. Vote down the rule and vote down the bill.

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

Mr. ROYCE. Mr. Speaker, last year my colleagues and I on the conference committee for the Sarbanes-Oxley Act

sent to the President a bill that included tough new criminal penalties for corporate malefactors. I think at that time we took a number of steps that were important. We drastically increased the sentencing guidelines for securities fraud, for document shredding, for mail and wire fraud. I think Congress provided a strong deterrent for many white-collar criminals that would misrepresent the true financial health of their companies.

□ 1300

By passing this legislation, I think we send a serious message to Wall Street and to Main Street that these corporate criminals would be dealt with as harshly as other criminals. I think today Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass this bill, H.R. 975. This bill may not have everything we want in terms of how it is phrased, but included in this bill I think is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth. This is in cases where someone has committed securities law violations or other bad acts, and I think by empowering the government to go after the ill gotten gains that corporate officers who break the law and then tie up those assets in offshore mansions at the expense of parishioners who have been swindled, I think this is an important addition to the law.

Also, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, and I think that protects taxpayers from having to bear the cost of corporate collapses like Enron and WorldCom; and I think it also guards against fraud and abuse by requiring that high-income debtors who have the ability to repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab in the long run.

It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so. For far too long, Americans who have worked hard and paid their bills have been held accountable for their debts but also by debts incurred by those who irresponsibly file for bankruptcy; and I think this long-overdue legislation will reform the critically flawed bankruptcy process and prevent affluent filers from gaming the system and passing on their bad debts to hard-working families, while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer, not a tool for those who could pay their debts, but choose to discharge them instead. By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct a flaw in the current system that encourages people to file for bankruptcy and walk away from debts regardless of whether they are able to repay any portion of what they owe, and it does this while protecting those who truly need protection.

So I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for centuries American bankruptcy law has had the principle that if a person ever gets over their head in debt, they can cash in all their assets, pay off all the debts that they can, and get a fresh start. For policy reasons, a few assets have been historically exempt and a few debts have been historically nondischargeable, especially those that have been incurred by fraud or through abuse of the bankruptcy system. Yet the principle has always been the same, cash in all one has and get a fresh start.

This bill violates the historic principle. People who incur debts because of illness, unemployment, or business failure and have debts they cannot pay off will be denied an opportunity to get a fresh start. They will be stripped of every penny of income after basic expenses such as food and rent without reasonable allowance for unforeseen emergencies such as auto repairs and so forth, which will inevitably come up. People in these circumstances will be in economic slavery for 5 years and probably be worse off at the end of 5 years than they were before. During this time a person over his head in debt has nothing to lose. This bill will deny relief under the traditional bankruptcy laws for at least 5 years.

The bill has no rational measure for determining a person's ability to pay off their debts. It says if they can pay off $10,000 on their debts over 5 years, that is $167 a month, then they are not entitled to a discharge. A person could co-sign a spouse's business loan only to have the spouse die or disappear and with a $50,000 salary find him or herself owing $1 million, unable to even make interest payments, and that person would be denied relief under this bill. This will cause many Americans who have had unforeseen business failures, health problems, or unemployment to find themselves unable to pay their debts and be trapped with no way out.

If our goal, Mr. Speaker, is to create a situation where people are stressed out with nothing to lose and to maximize the chances that a person will totally lose control and terrorize the community or their co-workers, this is it. Just this week in Washington, D.C. we have seen the impact of financial stress. The North Carolina farmer who drove his tractor into the pond near the National Mall was quoted as saying: ''I'm broke, busted, I'm out.'' No one in the community is safer when we have increased the number of our neighbors who have nothing to lose.

Finally, Mr. Speaker, we need to consider the impact this bill will have on small business entrepreneurs. How many will be willing to take a chance on a new business if any failure will result not just in bankruptcy but no relief for the family for 5 years? No bank in the future will lend a business any cash, especially one in financial distress which actually needs the money, without the personal signature of the owner. Long ago we decided that there would be no debtors prisons in America. This bill represents an effort to take a giant step backwards to this bygone era, and I urge my colleagues to reject this bill and the rule.

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

Mr. Speaker, the Committee on Rules has been the subject of debate today; and the Committee on Rules met last night to talk about this bankruptcy bill, presented a fair, as they always do, rule to be able to discuss and debate this important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, let me begin by thanking the gentleman from Dallas, Texas (Mr. SESSIONS), my friend, for his spectacular job in so ably handling the management of this rule.

The proverbial ''Ground Hog Day'' is what comes back to mind. We have been dealing with this issue over and over and over again, and we tried desperately in the waning days of the 107th Congress to move ahead with a conference report on this because everyone agrees the problem that exists out there of abuse of the bankruptcy law needs to be fixed, and we know that members of the Committee on the Judiciary have worked long and hard on this issue, and we appreciate the fact that we have worked in a bipartisan way on the legislation.

But, Mr. Speaker, I am particularly proud of the fact that when we looked at this rule, I know that my friends on the other side of the aisle would like to have an open amendment process with every single proposal that was put forth to the Committee on Rules consider, but quite frankly virtually all of these issues were addressed in the Committee on the Judiciary, and they dealt with these questions, and we have the responsibility of trying to manage as well as we possibly can this floor and at the same time, as I said when I was here last week, working hard to ensure

the rights of the minority. I do feel very strongly about that. I feel strongly about it because, as I said when I was here last week, I served for 14 years in the minority and I believe that we need to work as hard as we can to allow as many ideas as there are out there to address these concerns and have a chance to come forward. So that is exactly what we have done.

Mr. Speaker, there were 14 amendments submitted to the Committee on Rules, and I am happy to say that we have two bipartisan amendments that we have made in order and three amendments offered by Democrats, exclusively by Democrats that have been made in order on this issue; and I know yesterday that the gentleman from Texas (Mr. FROST), the ranking minority member, referred to the Gutierrez amendment as a technical amendment. I happen to be very strongly in support of the Gutierrez amendment. I think it is a very important measure. It needs to be addressed, but it is a Democratic amendment.

So, Mr. Speaker, as we try to focus on issues of individual initiative, responsibility for one's actions, while at the same time ensuring that those who are in fact really down and out and need to have as a recourse the filing of bankruptcy, I believe that as we look at those concerns that this legislation, when we pass this rule, will allow for an open discussion of the different alternatives and the proposals that people have, including the gentleman from Michigan's (Mr. CONYERS) substitute, which we have made in order; and then at the end of the day I hope we can pass this and then move ahead and have action taken in the other body and a conference after years and years and years with so much hard work put into this. The gentleman from Illinois (Mr. HYDE), the gentleman from Wisconsin (Mr. SENSENBRENNER), and the others on the Committee on the Judiciary who worked on this finally have a product that the President will be able to sign.

So I thank my friend again for yielding me this time, and I thank him for his superb service on the Committee on Rules; and since I see two other members of the Committee on Rules here, the gentleman from Florida (Mr. HASTINGS) and the gentlewoman from New York (Ms. SLAUGHTER), I also thank them for their fine service on the Committee on Rules as well.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I strongly urge all Members to oppose this rule. Yesterday, Republicans on the Committee on Rules refused to make in order my amendment that would help three categories of individuals who should be given an opportunity to get back on their feet while still being obligated to take responsibility for their debts. Without my amendment, credit card companies will get more consideration than, one, men and women on active duty in uniform; two, victims of terrorism; and, three, unemployed Americans.

As we stand within hours of war, we owe it to our soldiers in uniform to think about their financial vulnerability. My amendment would have made sure that the brave men and women who serve this country will be able to file chapter 7 exempting them from the rigid means test required by H.R. 975. There is a great possibility that the families of many of the men and women who go to war in Iraq will have economic problems. This past Sunday on ''60 Minutes,'' Mrs. Vicky Wessel, whose husband is a Reservist who was sent overseas, summed it up by saying: ''Emotionally it's been tough not having a husband around, not having a father for the kids; but financially it's been really difficult because a staff sergeant's pay is a 60 percent cut in pay from what my husband's regular job pays.''

There are thousands of families like the Wessels. If we enter war with Iraq, we can expect that some of these families will be forced to file bankruptcy, and they should not be subjected to the means test.

Two, victims of international terrorism. I do not believe anyone would argue that the victims of terrorism should be subject to the means test in the bill. As we all know, many of these families have lost loved ones who were their families' primary breadwinners. After and during all of their grieving, they may find themselves as victims again of economic devastation. Minimally they deserve the protection that chapter 7 bankruptcy affords them.

Third, the unemployed. In today's economy, 10 million unemployed workers want jobs but cannot find them. More than 2 million unemployed workers have run out of their regular State-provided unemployment benefits and the emergency unemployment benefits they received under the temporary Federal program. Many of these workers now have no jobs and no means of support. Two thirds of those filing for bankruptcy report a significant period of unemployment preceding their filing. My amendment would make sure that people who exhaust their unemployment benefits would not be subject to the H.R. 975 means test. We should make sure that people who have lost their jobs through no fault of their own are able to file for chapter 7 bankruptcy. We should make sure they have an opportunity to regain their economic independence.

And finally let me say that we should put the interests of American families, ordinary American families, people in uniform, people who have lost their jobs, people who are victims of terrorism, before the interests of profitable credit card companies.

Oppose this rule. Vote against the underlying bill. It is a bad rule and a worse bill that could not come at a worse time.

□ 1315

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Speaker, this has been a vigorous debate. We go through this often. There are some nice things I would like to say about two nice gentlemen also. One of them is the gentleman from Illinois (Chairman HYDE), and the other is the gentleman from Wisconsin (CHAIRMAN SENSENBRENNER).

These gentleman have ably, carefully taken in the views of witnesses, of thoughts and ideas not only about bankruptcy, but have included in that the thought processes of consumers and normal people and bankruptcy judges. These two gentlemen have worked diligently to make sure that this body, the United States Congress, has a chance to have before it not only good legislation, but legislation that is well thought out.

In particular I would like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his patience, guidance and leadership to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, and also the body of the Committee on Rules, because the gentleman from Wisconsin (Chairman SENSENBRENNER) has done an outstanding job in making sure that today we have a great piece of legislation.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8, rule XX, proceedings will resume on three of the motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 314, by the yeas and nays;

H.R. 417, by the yeas and nays; and

H.R. 699, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

MORTGAGE SERVICING CLARIFICATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 314.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the

rules and pass the bill, H.R. 314, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 68]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Buyer
Carson (IN)
Cooper
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

□ 1338

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 417.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 417, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 69]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)

McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Buyer
Carson (IN)
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Slaughter
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair would remind all Members there are 2 minutes remaining in this vote.

□ 1346

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and passing the bill, H.R. 699.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 699, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 6, not voting 14, as follows:

[Roll No. 70]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
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Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—6

Burgess
Coble
Cummings
Flake
Miller (FL)
Paul

NOT VOTING—14

Buyer
Carson (IN)
Gephardt
Hyde
Jones (NC)
Kilpatrick
Manzullo
Northup
Pitts
Ros-Lehtinen
Royce
Slaughter
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would remind the Members that there are 2 minutes remaining in this vote.

□ 1353

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NORTHUP. Mr. Speaker, on rollcall No. 70 I was unavoidably absent. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their

remarks and to include extraneous material on the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

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

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 975.

□ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today is a victory for those Americans who work hard, pay their bills, but are forced to shoulder the debts of those who abuse our bankruptcy system. H.R. 975 restores personal responsibility and integrity to our bankruptcy system by offering a fresh start to those who deserve one, while cracking down on those who do not.

All Americans suffer when people who have the ability to pay their bills do not do so. Just yesterday the Spiegel Group, an entity that owns the famous Spiegel Catalogue and the Eddie Bauer stores, filed for bankruptcy. Why? This company, founded in 1871, began offering credit to its customers under the slogan ''We trust the people.''

According to one news report, however, the company trusted too many people, and some did not pay their credit card bills. Analysts estimate that the default rate with respect to Spiegel's credit card receivables ranged from 17 to 20 percent.

When businesses hurt, their employees and investors hurt, and our economy suffers. America's bankruptcy system was established to help provide a fresh start for individuals with demonstrated financial need. H.R. 975 maintains this goal by providing relief to those who truly require financial protection as a result of unexpected medical bills, unemployment, or other legitimate needs.

Our bankruptcy system was also established to encourage the reliable collection of debt owed to creditors. The measure we consider today advances both of these objectives and provides a comprehensive framework to promote the integrity of our bankruptcy system.

Take, for example, homestead exemptions. We have all heard about the former corporate executives acquiring or building multibillion-dollar mansions in the very face of those shareholders who are defrauded by such individuals.

I am particularly pleased that this legislation places reasonable monetary limitations on unlimited homestead exemptions which have often been misused by debtors to unfairly evade their financial obligations. This legislation will keep crooked corporate executives from using bankruptcy to shield their mansions and penthouses from the claims of creditors, defrauded shareholders, and employees.

In addition, H.R. 975 includes numerous proconsumer provisions. The bill includes special protection for individuals with spousal and child support claims. In addition to giving these claims the highest priority in regard to payment, it expands the definition of these claims to include obligations that are accruable before or after a bankruptcy case is filed, and requires deadbeat parents to pay those debts even after filing bankruptcy relief.

H.R. 975 exempts from the claims of creditors certain retirement pension funds and educational IRAs for the debtor's children. It mandates that credit lenders give consumer borrowers more disclosure about the adverse consequences of just paying the minimum monthly payment.

The bill requires debtors to receive credit counseling before they can be eligible for bankruptcy relief, so that they will make an informed choice about bankruptcy, its alternatives, and its consequences.

□ 1400

In several significant respects, H.R. 975 helps our Nation's family farmers in financial distress. It makes Chapter 12, a specialized form of bankruptcy relief, a permanent component of the bankruptcy codes. It ensures that more family farmers will be eligible for Chapter 12 by easing some of the income and debt limitations that currently restrict access to this type of bankruptcy relief; and for the first time family fishermen will be eligible to file for relief under Chapter 12.

H.R. 975 authorizes the increases of 28 additional bankruptcy judgeships. According to the Administrative Office of the United States Courts, the workload of bankruptcy judges has increased 52 percent since 1992, which was the last time additional bankruptcy judges were authorized.

Another major reform of H.R. 975 deals with the economic stability of our Nation's financial marketplace. The bill includes provisions intended to reduce systemic risk with respect to the setoff or netting of various financial transactions. Federal Reserve Board Chairman Alan Greenspan has described the enactment of these provisions as being extremely important. Finally, H.R. 975 addresses problems presented by the inconsistent and unpredictable current state of bankruptcy laws concerning the treatment of bankrupt multinational corporations. It largely codifies the Model Law on Cross-Border Insolvency to ensure greater legal certainties for trade and investment, as well as provide for the fair and efficient administration of these cases.

The time for these reforms is long overdue. This body has on six previous occasions passed similar bankruptcy reform bills. It is my hope that today we will again do the right thing and pass this needed bipartisan bankruptcy reform legislation. Perhaps the seventh attempt will prove to be a charm and finally lead to the enactment of these critically important reforms.

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

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the American people should not be deceived as to who really benefits from this so-called reform because it is not the American consumer. It is not the American taxpayer or the worker who loses his job or someone facing catastrophic medical expenses or the small business entrepreneur who is also hurt by provisions in this bill. No, the big winner here is the credit card industry because passage is going to mean billions of dollars to their bottom line.

The American consumers should understand that the interest rate on their credit card will not decline because of this bill. Over a 12-year period when the Federal fund rate fell from 13.5 percent to 3.5 percent, a line of some 10 percentage points, the average credit card rate actually rose to nearly 18 percent. Furthermore, it is going to cost the American taxpayer $500 million over 5 years to transform the Federal bankruptcy system into a collection agency for the benefit of the credit card industry.

We are going to hear a lot and we have heard during the course of our hearings about personal responsibility. Well, no one disagrees with that particular principle, but it ought to be a two-way street. Whatever happened to creditor responsibility? The former Chair of the Committee on the Judiciary, Henry Hyde, identified some 75 creditor enhancements in this bill. Passage of this legislation will undoubtedly exacerbate the imbalance between creditor and debtor.

A respected consultant for the credit card industry stated that the principle

factor in increase in bankruptcies has been the dramatic lowering of loan standards, of underwriting. And every single time we attempted to introduce some reasonable measures to ensure appropriate lending practices, we were defeated by the credit card lobby. And meanwhile, they induced consumers to take on an ever-increasing amounts of debt by inundating the American people with some $5 billion of solicitations yearly. They have increased rates and fees on current accounts often with inadequate or misleading disclosure, and they engage in relentless marketing efforts that target children, the deceased, and in one particular case, even a dog.

Some of the major players such as Providian and MBNA have paid healthy penalties to settle claims regarding late fees and other practices. What has happened, Mr. Chairman, is that the credit card industry has created a culture of debt that is overwhelming millions of Americans, and that is particularly frightening in this extremely precarious economy. So let us be responsible and accountable. Let us defeat this bill because it is not bankruptcy reform. It is a bill that simply bankrupts.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Chairman, I rise in support of this measure and urge its adoption by the House. This reform proceeds from a sound premise. If someone can afford to repay a substantial part of the debts that he owes after accounting for his living costs, he should do so.

The person who can repay debts should not use the complete discharge provisions of Chapter 7 of the Bankruptcy Code. He should be directed into the supervised debt repayment plans contained in Chapter 13 of the Code.

The bill makes this much needed reform. In doing so, it would also relieve the more than $400 annual hidden tax that the typical family pays on account of the widespread misuse of Chapter 7. That amount represents the increased costs of the credit and the higher prices of goods and services that arise from Chapter 7 misuse.

The reform before us will also benefit consumers by requiring that credit card statements clearly state the consequences of only paying the required monthly minimums, and the spouse of a person taking bankruptcy is much better off under this bill than under current law. Today her claims are fifth in priority for claims against the bankruptcy estate, well behind other creditors. Under the bill she will become number one and her claim will receive clear priority. This measure will make long-needed changes in our Nation's bankruptcy law, and it is my pleasure to urge its passage by the House.

Mr. DELAHUNT. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, today thousands of Americans are out of work as a result of the slumping economy and corporate scandals. In my home district in Santa Clara County, unemployment is now over 8½ percent. But rather than help these workers, we are asked to further punish them.

Do not be misled. H.R. 975 is not about preventing spendthrifts from abusing the system. The leading cause of personal bankruptcy is not out-of-control spending. It is unemployment. Two out of three people who file have lost jobs. Half have experienced a serious health problem. Nevertheless, under these so-called reforms, many will be forced into Chapter 13, where more debts will survive and only limited households goods will be protected from repossessions.

Under this bill, seniors, who represent the fastest-growing group of personal bankruptcies, will also suffer. Nearly half of seniors who file bankruptcy do so because of medical expenses. That is not hard to understand. Out-of-pocket health care expenses for seniors increased nearly 50 percent from 1999 to 2001. At the same time, many HMOs have cut prescription drug coverage, and this Congress has still failed to pass a sensible prescription drug plan.

Women who represent the largest group of personal bankruptcies will also suffer. In 1999, over 200,000 women who filed for bankruptcy were owed child support and alimony. While punishing seniors, single mothers, and middle-class Americans, the bill does absolutely nothing to hold big banks and credit card companies accountable for their behavior. It does nothing to protect consumers from predatory lenders. It requires no additional disclosures that make it easier for consumers to understand their debt.

The proponents of this bill say they want to restore personal responsibility and integrity to the bankruptcy system. What their bill really does is punish people who are in financial trouble because they lost a job, have huge medical bills, or cannot get a deadbeat dad to pay child support. These are the people who account for a majority of the personal bankruptcies, not spendthrifts who abuse the system.

No one wants to enter into the bankruptcy court; and most people who do so, do so with a great deal of shame. But I look at those who have a child suffering from cancer, who have been unemployed for a year, and I say to them, there but for the grace of God go you or I.

The bankruptcy system is meant to assist people in that situation, and I think that those in this House who consider themselves to be compassionate conservatives ought to open their hearts to those who file for bankruptcy because of such personally devastating situations. I urge my colleagues to reject this misguided bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if this bill is voted down, we also will have opened up our hearts to corporate crooks who build multimillion dollar mansions on the water in nice places in Florida because the unlimited homestead exemption that is in the current law will be maintained. I do not want to open up my heart to those folks, and that is why this bill ought to pass.

Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his infinite work on this bill and hope that we bring it to fruition today.

Let me just comment on the comments just made recently about the source of most bankruptcy. Most people who take up bankruptcy have legitimate reasons. It is either because of loss of employment; or, secondarily, as the gentlewoman from California (Ms. LOFGREN) mentioned, for medical purposes.

I believe that this bill leaves those people with the same recourse they have, but it is intended to bring to bear the law on those who would use and abuse the bankruptcy system.

The House has worked for nearly 6 years perfecting this legislation, and less than 4 months ago passed virtual identical language by a resounding vote of 244 to 116. When this effort first began, America faced a startling rise in bankruptcy filings. The problem has grown only worse as we have labored to confront ever burgeoning filing and increasingly flagrant abuse of the bankruptcy code. Just last month, the Administrative Office of the United States Courts reported that the number of bankruptcy filings in the latest 1-year period again has broken all previous records. During calendar year 2002, nearly 1.6 million bankruptcy cases were filed, reflecting an increase of approximately 6 percent over the prior year.

The gentleman from Wisconsin (Chairman SENSENBRENNER) and 50 original co-sponsors introduced H.R. 975 on February 27. The bill improves bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system and by ensuring that both debtors and creditors are treated fairly. In addition to consumer business and bankruptcy law reforms, H.R. 975 includes an extensive array of provisions ranging from implementing an entirely new form of bankruptcy relief to deal with the complexities of transnational insolvencies to extending special protections to family farmers and fishermen.

The bill has been carefully through three Congresses, by the Committee of

the Judiciary, the House, the other body, three conference committees, and ultimately again in the House. There have been some 18 hearings before the subcommittee which I chair and a full committee, at which more than 130 witnesses have testified.

I challenge any Member of this body to point to another topic which has been so thoroughly and completely examined by Congress.

Everyone here recognizes the problem. No one disputes the severity of the current bankruptcy crisis; but, Mr. Chairman, the time for deliberation is over. The time has come to act. We can no longer expect long-suffering American businesses and consumers to wait for meaningful bankruptcy reform. I urge support for H.R. 975.

□ 1415

Mr. DELAHUNT. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. NADLER), a member of the committee, the former ranking member on the Subcommittee on Commercial and Administrative Law.

Mr. NADLER. Mr. Chairman, although we have been considering bankruptcy legislation since the end of 1997, this bill has gone through many incarnations, but some things have not changed.

Number 1, there is no bankruptcy crisis. The number of bankruptcy filings have gone way up, but not because, as the proponents of this legislation pretend, mores of changes, no social stigma. The rise in bankruptcy tracks directly, year to year, with the rise in the ratio of debt in society to income.

As the credit card companies have churned out more and more credit and have given it to people who are less and less creditworthy, and people have taken on more and more credit, there are more bankruptcies. People cannot pay their debts. Surprise. In fact, in 1983, before the so-called crisis started, the average debt-to-income ratio of a Chapter 7 filer was .74. In other words, a person filed bankruptcy, the average Chapter 7 filer owed 74 percent of his annual income in debt.

Today, the average Chapter 7 filer owes 125 percent of his annual income in debt. People are more reluctant to file for bankruptcy than they were 20 years ago, not less reluctant, but they are doing it because there is more and more debt, because we have not properly regulated the credit card companies, which are issuing more and more debt not because they are losing money on it, but because they are making money hand over fist. It is the biggest profit center they have, and they have the nerve to come to us and say we should bail them out of their profligacy because they are losing a small percentage of the tons of money they are making, a small percentage of it is slipping through their fingers because of the increase in bankruptcies that they have produced and knowingly produced.

In the last 5 years, many things have happened. The economy has worsened. Whatever the reasons, that is a fact. People are hurting, and more than that, businesses are hurting. This bill will make it much harder for businesses to rescue a going concern. It will make it much harder for a Chapter 11 business to reorganize, much more likely it will be liquidated, and thus it will hurt communities, employees, trade creditors and other businesses.

Making a discharge in bankruptcy more elusive will make it harder for consumers to get a fresh start and continue to make consumer purchases, which is one of the mainstreams of our economy. Household debt has reached record levels. With that come more bankruptcies, but no serious economist would argue that a precipitous drop in consumer spending would help our economy.

Bankruptcy is a trade-off. The safety net encourages risk-taking in business, allows distressed families to remain in the economy, and maintains demand for products businesses must fill to survive. Bankruptcy does not cause default any more than a hospital causes people to be sick.

We have been told that bankruptcy is a free ride. The facts are that it is not a walk in the park. A debtor in Chapter 7 must give up all his nonexempt assets in order to obtain a discharge. Secured debts must be paid, or the property is subject to foreclosure. The bankruptcy remains on the debtor's record for 10 years, and the debtor may not refile for 6 years under current law and 8 under the bill, which is 1 more year than is found in Deuteronomy. Apparently the banks who wrote this bill believe they know better than God on this one.

It can be harder to get a job, an apartment or a loan. As a majority witness who had been indebted told the Committee on the Judiciary a few years ago, had she known the consequences of filing, she might not have done so.

No one believes that people should avoid paying their debts if they can afford to do so. The question, rather, is does this bill make sense. Members should ask themselves why the overwhelming majority of bankruptcy professionals, scholars, trustees, creditor lawyers, corporation lawyers and judges are appalled that Congress is even contemplating this bill.

There is a terrible disconnect between people who actually have to make a system function regardless of their role, whether for creditors or debtors or interests who oppose this bill, and here in Congress, the demands of special interests who have a stake in some provision of this bill are generally viewed as a great idea that requires no further consideration.

Over the years we have heard from, among others, Ken Klee, one of the leading bankruptcy scholars and business bankruptcy lawyers in the country, and the former Republican bankruptcy counsel to the Committee on the Judiciary. He has drafted Supreme Court briefs signed by Members of this House. Ralph Maybe, one of the most respected business bankruptcy lawyers in the country, also testified against the bill.

The late Lawrence King of New York University and editor in chief of the authoritative Colliers on Bankruptcy has testified against this bill. Bob Walschmitt, on behalf of the National Association of Bankruptcy Trustees, and Hank Hildebrandt, on behalf of the National Association of Chapter 13 Trustees, have strongly criticized this bill in testimony, notwithstanding the fact that their organizations do not take formal positions on bills.

We have heard from consumer rights organizations, just about every women's group in the country, child advocacy groups, labor unions, civil rights groups and every national bankruptcy organization in the country that this bill will hurt consumers, families, children, yes, children, employees, minorities and the economy. It will raise costs to the system and disrupt the efficient management of bankruptcy proceedings.

Mr. Chairman, despite the votes in this House, opposition to this bill is hardly marginal. In fact, outside the Beltway opposition is mainstream among the Nation's experts. We have had many hearings over the years, but the considered opinion of people in the position to understand this technical subject matter has been ignored.

Mr. Chairman, I know the leadership is intent on moving this bill. I know it is a priority of the President. We have a responsibility to the country to be deliberative, to take a careful look and to get it right, no matter what the politics.

Many of my colleagues have voted for this bill in the past, but times have changed. The economy has changed. Do not ignore reality. Do not ignore what is going on outside the Beltway. Let us take a fresh look at the facts. Even Members of Congress, Mr. Chairman, are entitled to a fresh start.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. OXLEY), the Chairman of the Committee on Financial Services.

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

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Let me first recognize and pay tribute to the gentleman from Wisconsin's (Mr. SENSENBRENNER) tenacity in this area. If indeed the gentleman from New York indicated that this is a fresh start for the Members of the House, this is, I guess, our seventh fresh start as we work our way through reform of the Bankruptcy Code.

I had an opportunity to practice law for 9 years, and part of that practice included bankruptcy law, and I was involved in a number of bankruptcy cases, both business bankruptcies and personal bankruptcies, and all of my

colleagues are well aware that the Bankruptcy Code that we operate under now was passed in the late 1960s, early 1970s, and which we are now acting under. Anybody who says that the status quo regarding the Bankruptcy Code is acceptable to the American people, to practitioners, to petitioners, to the courts, to our system simply does not understand what a critical situation we are in in regard to the Bankruptcy Code.

So I salute the gentleman from Wisconsin (Mr. SENSENBRENNER) and the Committee on the Judiciary for the hard work that they have done. It may be like deja vu all over again, but it is a worthy cause, and I salute my colleagues for what they have done in putting together a balanced approach that recognizes the rights of the consumer, but at the same time recognizes that abuse of the Bankruptcy Code is rampant, and Congress needs to change that.

I want to pay particular attention to the financial netting provisions of the bill which would reduce risk, especially systemic risk associated with activities in the derivatives market. Derivatives, as many of my colleagues know, has become one of the fundamental management tools that protect mortgages, loans and the full range of savings and investment products.

H.R. 975 brings our bankruptcy laws up to date, thereby making sure that these instruments fully protect our markets from systemic risks and in the event that an entity fails. This provision has been recommended by the President's Working Group on Financial Markets and was indeed our committee's addition to this legislation.

Alan Greenspan, the Treasury Department and all of America's financial regulators are unanimous in their support of these provisions. Chairman Greenspan, on numerous occasions, has stressed the importance of the financial contract netting provisions.

Recently, Chairman Greenspan has stated, ''I have repeatedly stated my support for these netting provisions. U.S. businesses have come to rely heavily on derivatives for managing price risk, and netting and collateral agreements are widely used to mitigate the counterparty credit risks that might otherwise limit the effectiveness of derivatives for this purpose. Passage of the netting provisions would address lingering concerns about the enforceability of netting and collateral agreements vis-a-vis an insolvent counterparty.''

I would harken the committee's attention to the Enron situation, for example, or the WorldCom situation in which in many cases we have a lot of these derivative contracts that are now in the bankruptcy courts that will allow the bankruptcy judge to use this netting technique to facilitate not only the carrying out of the bankruptcy laws, but also protecting creditors at the same time. It is critically important that the House adopt this legislation.

I also want to indicate my support for the Toomey amendment that will be offered later when the committee goes into the amending process that provides parity for credit unions on the netting provisions.

Mr. Chairman, this is an important piece of legislation. I would ask that the House pass this as we have so many times before.

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

My friend, the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, indicated that this was a bill that would benefit the consumer. I would point out to him that this particular proposal, as drafted, has the support of the American Bankers Association, the United States Chamber of Commerce and American Financial Services Association.

I would suggest they are not protecting the interests of the consumer. That is not their role. They have a responsibility to advocate for their memberships, and I would acknowledge that they have been extremely effective, but those that are opposed to this particular proposal do represent the American consumer. Let me just enumerate some of them: The Consumer Federation of America, the Consumers Union, Foundation for Taxpayer and Consumer Rights, the National Consumer Law Center.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman for his generous yielding of time and want to focus on the fourth amendment that will come before this House dealing with venue shopping.

Most of this bill and most of the controversy is over individuals going bankrupt, but it is also important to the economy of this country that we have corporate bankruptcies run effectively. What my amendment would do is say that if a group of corporations is going bankrupt, they should file their case where they are located. So if, for example, Enron, a mainstay of the Houston community, goes bankrupt, they should file the case in Houston. That way the many small businesses that do business with that company can go to their local court and hope to collect some of what is owed to them.

Just as importantly, it means that the place where the corporation will file its case is set in advance. They realize we are going to go bankrupt; we are in our hometown. Imagine if in some basketball game, as we have in the upcoming March Madness, they did not have to take the referees that were assigned, but rather, one team was allowed to search the whole country and pick the squad of referees that they preferred. We would not end up with fair basketball games.

That is what we have in the area of corporate bankruptcy. Enron was able to scour the country, looking for a bankruptcy court that met the needs of the lawyers involved, met the needs of the executives in control. They went thousands of miles from Houston. They made it almost impossible for local small businesses to even have their case put before the court. They were able to scour the whole country for a forum, a venue that met their interests.

What was their interest? High retention bonuses, high lawyer fees. So we have a circumstance where Enron can scour the country and pick whichever court they feel is going to approve tens of millions, hundreds of millions of dollars in cash payments to the executives.

□ 1430

Fees of $500 an hour to the lawyers involved and hundreds of dollars to the associate lawyers, hundreds to the paralegals. How does this operate from the court's perspective? We have asked our government agencies to behave more like businesses, and they are. They are looking for market share. They are looking for more business, and every bankruptcy court in this country knows that it can get the cases, the juicy cases, the Enron, if only they are hospitable to the company and its lawyers that are declaring bankruptcy.

Today, it is one Eastern State or two that curry favor with the giant corporations going bankrupt. Tomorrow, it may be a Western State. It might be a Southern State. It may not be an entire State; it may be just one district court within that State, trying to gain market share by currying favor. The result is as crazy as if the referees were selected by one of the basketball teams.

I know that my amendment is going to be opposed more on the basis of what will make a particular Member of the other body happy, rather than what is good public policy. But let me warn this House, the competition for bankruptcy business has just begun; and the retention bonuses and fees approved for the Enron case may be just the beginning. Other districts will offer higher and higher retention bonuses, more and more liberal plans.

If Members voted for this bill in 1999, they voted for a bill that included a provision very much like my amendment. If the Members do not like the bill, and voted against it in 1999, they will probably be voting for the Democratic substitute, which includes a provision identical to my amendment. So virtually every Member will have voted for provisions on forum shopping. It is a good public policy. We have all voted or will vote for a bill that includes the provision. I think it is critical that we look past the politics and provide for efficient corporate bankruptcies.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to myself.

Mr. Chairman, the remarks of the gentleman from California should not go unanswered. The gentleman gives

the impression that the law that is proposed in this bill is a strait jacket that will prevent the shifting of cases around where there is a justification for it. I draw the attention of Members to title 28 of United States Code 1412 relative to change of venue. It says that a district court may transfer a case or proceeding under title 11, which is the bankrupt title, to a district court for another district in the interest of justice or for the convenience of the parties.

So if there is a need to transfer a case out of the court in Delaware, for example, to a court in Houston, the present bankruptcy code allows for that. There have been some courts that are very plugged up and are not able to process bankruptcies quickly. Business is steered away from those courts simply because they have been so plugged up. I believe there is enough flexibility, and there should not be a poison pill that will destroy the delicate balance; and hopefully we will get this bill passed.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act. This legislation promotes personal responsibility and helps prevent bankruptcy abuse.

Bankruptcy filings are at an all-time high. During the 12-month period ending on March 31, 2002, there were 1.5 million bankruptcy filings. When bankruptcy filings increase, every American must pay more for credit, goods and services through higher rates and charges. It is high time that we provide relief to consumers burdened by paying for the debts of others.

A key aspect of H.R. 975 is the retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh-start provisions of Chapter 7 will be granted to those who need them, while debtors who can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

In addition, H.R. 975 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. What these people may not realize is these debts do not disappear. They are passed along in higher charges and rates to hard-working folks who pay their bills on time. H.R. 975 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargeable debts made in the period immediately preceding their filing.

H.R. 975 also helps consumers. For example, this legislation helps children by strengthening the protections in the law that prioritize child support and alimony payments. In addition, H.R. 975 protects consumers from bankruptcy mills that encourage folks to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

Furthermore, H.R. 975 ensures the fair treatment of those that administer our bankruptcy laws. I strongly support the provisions of H.R. 975 that restore fairness and equity to the relationship between the U.S. trustee and private-standing bankruptcy trustees. Specifically, the bill provides that, in certain circumstances after an administrative hearing on the record, private trustees may seek judicial review of U.S. trustee actions related to trustee expenses and trustee removal. This compromise worked out between the U.S. Trustees Office and representatives of the private bankruptcy trustees will ensure fairness for those who dedicate themselves to their duties as private trustees while ensuring that the U.S. trustees is subject to the same checks and balances as other government agencies.

Mr. Chairman, bankruptcy should remain available to folks who truly need it, but those who can afford to repay their debts should repay their debts. H.R. 975 provides bankruptcy relief for those who truly cannot pay, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that H.R. 975 strikes the appropriate balance between these two important goals.

I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his tremendous work on this legislation, and, I might add, for his long-suffering perseverance with this legislation. I urge Members to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. DELAHUNT. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am back on this bill because it is so excruciating to see us deal with this legislative initiative that can be represented to correct the failings in the bankruptcy code, but really should be understood by my colleagues.

I mentioned earlier today that bankruptcy is not a badge of honor. None of our neighbors run to the neighborhood civic meeting and announce that they have declared bankruptcy. Documentation shows that the percentage of individuals declaring bankruptcy are either victims of catastrophic illnesses, elderly persons who have lost their spouses, divorced persons, a huge percentage of women, people who have fallen on hard times.

I have two very wonderful constituents who own the Donald Watkins Clinic in Houston, Texas, who happen to be visiting me today. They work with people who are infected with HIV–AIDS, a devastating disease, fighting for their lives. Just this past week, I visited a shelter for individuals who are indigent with HIV–AIDS. They are in this shelter not because they do not want to work, but because they have lost all of their resources. The Donald Watkins Clinic treats individuals like this. At the shelter I visited with a gentleman who came into the area where I was standing, smiling and excited. Although devastated by HIV–AIDS, he was attempting to seek work so he could support himself. He was not lounging around and being satisfied with the predicament of living in a shelter. He had worked before, he had resources; but because of bad times, he was not able to ensure his livelihood and his support.

This legislation today creates what we call a means test. Interestingly enough, it is mean. What it does is it takes away the discretion of the court to determine whether an individual is legitimate to be in the bankruptcy court. It gives a litmus test, a criteria, a list, so even before someone can get into the court, there is a sign that says no room at the inn. It is an IRS litmus test that indicates for a family of four what they can survive with. Give away the car that gets you back and forth to work. Families cannot have a baby-sitter for 3 hours a week so the wife can go to a second job. That is what this bill does.

I wish my colleagues who support this legislation had not tried to get the cake, the candles, and the birthday party all at once. Why not be considerate of the divorced mother seeking child support or the family-planning clinic bombed, and those who would seek that way to prove their point against choice, being able to hide in the bankruptcy court when people who are seeking damages are maimed and cannot get recovery. That is what this bill is about.

I would love to have a bipartisan legislative initiative that addresses those who are abusive. I happen to believe there should be no cap on the homestead because in Texas, we value our homes as a last resource that anybody will have to protect themselves. We could have worked with this bill if it had been reasonable, or there had been reasonable men and women in this House or body. But, no, we have fallen victim to the special interests, the $40 million, the entreaties by the industry that we have to have it. Now where are we? A $236 deficit, a war that we do not know how much it will cost, a trillion dollars possibly to pay for the war, and a trillion dollar deficit in a decade, and people being laid off by the minute, jobless, and we pass a bankruptcy bill.

The Founding Fathers did not expect that we would make light of a debtors court. They thought we would protect Americans, but here we are. Who knows what may happen to those Reservists who had to leave a job and so now they are down to a single income.

Mr. Chairman, are we going to pass a bill like this that stands in the way of those who are seeking to get themselves in order, business in order, but at the same time there is limited protection to the major companies that file the largest bankruptcies in the Nation, laying off a variety of individuals before they can even get their health benefits and their unemployment benefits?

Mr. Chairman, this is a bad bill. I encourage all Members to vote against it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to clear the confusion that has just arisen. There are several provisions of H.R. 975 which are crucial to the collection of child support during bankruptcy which will fail if this bill goes down.

First, it prioritizes the collection and payment of spousal and child support. The legislation gives spousal and child support the highest priority under bankruptcy law. Current law give these claimants only a seventh-level payment priority. Spousal and child support will remain at seventh level if this bill goes down.

H.R. 975 requires important guidance and information be supplied to child support payments and a notification to State child support agency of a deadbeat parent's bankruptcy filing. That will not happen if this bill goes down.

H.R. 975 protects the name of the debtor's minor child from public disclosure in a bankruptcy case. That is public record if this bill goes down.

□ 1445

H.R. 975 permits enforcement actions to continue or to be commenced notwithstanding the deadbeat's bankruptcy filing. With the automatic stay under the current law, there cannot be an enforcement action for back child support, and any pending enforcement action is stayed. If this bill goes down, that means enforcement actions will come to a screeching halt.

Finally, H.R. 975 permits child custody and domestic violence proceedings to continue notwithstanding the debtor's filing for bankruptcy protection. Those actions will be stayed if this bill goes down.

This bill does protect women and children and should be passed.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time and for his work on the legislation. As a member of the Committee on the Judiciary, this is the second term I have been here and the second term we have worked to pass bankruptcy reform. Unfortunately it has been attempted for quite a while.

Let us not forget why we have a bankruptcy law in the first place. It is there to help people who need it, people who have no assets or ability to pay their debts. It has been all too often abused, however, by those who do not need it, those who can pay their debts, slick con artists who game the system, irresponsible spenders who ignore the consequences of their actions. The purpose of this bill is to make sure that the consumers are not continuing to be harmed by our bankruptcy laws and to make sure that those who really need our bankruptcy laws have them there to access.

As bankruptcy filings rise, our economy suffers. Filings increased by 150 percent in 2002. That amounts to $110 million per day of losses. The average American family pays more than $500 a year in increased prices as a result of unpaid debt. It is unfair to force responsible Americans to pay that premium. Small business owners will close their doors because debtors avoid payment for goods and services through filing bankruptcy. Americans lose jobs.

I support H.R. 975 because it protects consumers. It helps women and children who will be hurt by the filing of a bankruptcy by the person who is supposed to be paying support, making those debts a priority. The collection and payment of spousal support and child support are a priority under this legislation. It expands also other debts that are owed to the spouse and children and puts them in a priority position. It gives them the highest payment priority under bankruptcy laws. Therefore, children and women are protected. It allows child custody and domestic violence proceedings to continue, once again protecting them from a debtor's bankruptcy filing. It also supports and protects education savings accounts and certain retirement accounts, so it protects families.

Mr. Chairman, finally, this bill closes a huge loophole called the homestead loophole. This bill includes this extremely important provision for fairness. By closing this loophole, Congress continues the work we began last year on corporate responsibility. Under current bankruptcy law, debtors can claim all of the equity of their home and exempt it from the bankruptcy. Some debtors move to certain States that allow this just before filing bankruptcy so that they can buy million-dollar estates and protect those millions of dollars from their bankruptcy filing. H.R. 975 closes this loophole, requires debtors to reside in a State for at least 2 years before claiming that kind of a homestead exemption, and, more importantly, it limits that exemption in many cases to $125,000 so that those millions that they are trying to hide can be used to pay their debts.

Mr. Chairman, this is a just bill. I encourage my colleagues to support it.

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

I think it is important to point out that there was an American Bankruptcy Institute study that showed that while the credit industry estimates it may recover some $4 billion under the rigid standards of the means test, the study indicated that the creditors would only receive $450 million in actual collections. The Executive Office of the United States Trustee within the Justice Department conducted a similar study that reached similar results, estimating that the passage of the bill incorporated within the conference report last year, which is almost identical to the bill that is before us now, would have netted creditors no more than 3 percent of the $400 per household they claim to be losing.

Finally, Mr. Chairman, we have received no evidence, no empirical data whatsoever, that the credit card industry would likely pass on any of the potential savings, albeit minimal, from bankruptcy law changes to the consumer. It would go to the bottom line.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. WATT), ranking member of the Subcommittee on Administrative Law.

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this process has been going on for quite a while. I am one of the people who has been involved with the process from the very beginning. Before there was a bankruptcy bill, there was a bipartisan consensus, and I was included as part of that bipartisan consensus, that reforms needed to be made to the bankruptcy law. There was no means test in the bill at that time, and there was no bill. There was just a bipartisan consensus that something needed to be done to address the gaming of the bankruptcy system. A number of us were willing to sit down and roll up our sleeves and try to deal with the fact that people were gaming the bankruptcy system.

I was among the people who was the first to concede that there was a problem in the bankruptcy system. Unfortunately, 2 or 3 months into the process, we started to see that some concessions were starting to be made that made this bill really not address the gaming of the system, the games that were being played within the bankruptcy system, in a way that was going to have a fair impact.

First of all, consumer groups and representatives of poor people said, ''We are not going to let you do a reform of the bankruptcy system unless you make some concessions to us,'' and they were a powerful lobbying group. Unfortunately, the people who wanted this bill said to the consumer groups, ''We'll give you something if you just keep quiet. What we will give you is a means test that allows people who fall under a certain income level, regardless of whether they are gaming the system or not, we'll let them continue to operate business as usual.'' So emerging from that kind of compromise was this whole concept of a means test, which has the terrible public policy impact of setting up two parallel bankruptcy systems in our country, one for the poorest of the poor,

which I call the paupers' bankruptcy court, and one for the not so poor, which are kind of the higher-income people whose incomes fall above the means test.

Unfortunately, that does not address the gaming of the system. There are people who fall above the means test, who need the benefits of bankruptcy, who are not gaming the system, and there are people above the means test who are gaming the system. But there are also people below the means test who are gaming the system as well as people below the means test who are not gaming the system, who really need the benefit of bankruptcy.

And instead of coming up, rolling up our sleeves and addressing the real problem, which is the gaming of the system, we just abdicated and set up a terrible public policy mechanism here, this paupers' bankruptcy court and the not-so-poor bankruptcy court.

The other concession that got made was that despite the fact that, and I cannot blame this on the chairman of the Committee on the Judiciary. He presides over the Committee on the Judiciary. But this bill got a joint referral to the Committee on Financial Services, and part of the gaming of the system is taking place by credit card companies, and everybody can relate to this. You must get 50 solicitations a month at your home: Let me give you $10,000 or $25,000 worth of credit. You get my credit card, no real monitoring of whether you have the ability to pay. Poorest people, students in college, everybody gets these solicitations, and those people, the credit card companies who are into giving easy credit, are gaming the bankruptcy system in the same way that the people who are filing bankruptcies are gaming the system.

The problem is, yes, we have got a bill, but it does not solve the problem that we set out to solve, which was the gaming of the system.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this bill is about personal responsibility. It is about plugging loopholes in the Bankruptcy Code that result in the shifting of millions and billions of dollars to people who pay their bills on time. It is going to put more vibrancy in our economy because of the fact that debt that is written off is something that has to be absorbed by corporations and people who hire other people who cannot afford that. I would urge the Members to support this legislation.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 975 the Bankruptcy Reform legislation being considered.

I have heard from credit unions and banks in Tennessee and their message is clear: bankruptcy is all too often used as a first resort, rather than as a last resort. This makes it increasing difficult for them to operate.

In 1998, bankruptcy filings exceeded one million for the first time in our Nation's history. And in 2002 that number increased by 150 percent to 1.5 million. And the upward trend is expected to continue.

H.R. 975 is a compassionate bill: People who seek bankruptcy because of job loss, medical problems, divorce or other personal problems—will be unaffected by this legislation. Those who have the means to repay their debts should do so.

I'd like to thank the Chairman of the Judiciary Committee for his hard work in bringing this to the floor today and I urge my colleagues to support this bill.

Mr. UDALL of New Mexico. Mr. Chairman, thank you for allowing me the opportunity to offer my remarks today regarding H.R. 975, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending.

Equally frustrating is the process. In what is becoming a familiar refrain on the House floor when vitally important legislation comes before us, I strongly object to the rule under which this bill is being debated. Once again the majority has passed a rule stifling debate and blocking serious and substantive amendments. While they have made in order a substitute amendment to be offered by Mr. CONYERS, which I will be supporting, as well as amendments offered by Mr. SHERMAN and Mr. GUTIERREZ, there were an additional 6 amendments worthy of consideration by the entire body of the House of Representatives. This continued smothering of the democratic process by the majority is shameful and needs to stop immediately.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2001, the number of personal bankruptcies had risen to 1.28 million. Last year 1.45 million filings, up 19 percent from the year 2000, marked a record in the number of bankruptcies filed. In my home state of New Mexico, there was a 7.1 percent increase over 2001 filings, which marked the second consecutive year in which the state set a record in the number of bankruptcies filed. With those facts in mind, I strongly support the principle of increased personal responsibility of debt. However, I do not believe that H.R. 975 is the correct way to achieve this goal.

While there are many problems with H.R. 975, I'll name just a few of the more egregious provisions to which I strongly object. H.R. 975 imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on the unemployed, women, Hispanic homeowners, and the elderly. Reform in this bill is skewed towards restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

Mr. Speaker, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year. Taking the 2000 Census figure of 209,128,094 individuals in the United States over the age of 18, that breaks down to 24 unsolicited credit card offers per person per year! I wish this legislation would help break this vicious cycle, but unfortunately it does not.

Mr. Speaker, it is well known that bankruptcies are driven by economic difficulties and I think we would all agree that we find ourselves facing economic difficulties today. Unemployment is higher than it has been in over eight years and we stand on the verge of a war. Today is not the time to pass an extremely harmful bill that will have devastating affects on the most vulnerable individuals in our country.

I would like to reiterate that I strongly support increased responsibility by debtors, but this legislation does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. CROWLEY. Mr. Chairman, I rise in support of the Bankruptcy Abuse Prevention and Consumer Protection Act. I can give my colleagues one reason to support this legislation—fairness. This bill will restore fairness to our Nation's bankruptcy laws for those Americans who work hard and pay their bills on time.

A few days ago, representatives from a number of credit unions came to my office, including Rob Nemeroff of the Melrose Credit Union in Woodside, Queens in my Congressional District. He detailed about how the hard working, middle class people of his credit union—and of my District—continually have to pick up the tab for those who file bankruptcy—whether legitimately, as many do, or irresponsibly, as far too many do. This bill will provide them some fairness—something that my constituents do not often get from this Congress.

This legislation provides fairness to the victims of criminal corporate executives by mandating that these corporate pirates can no longer shield their multi-million dollar homes from defrauded investors seeking to reclaim some of their lost assets. And this bill provides fairness for women and children in their ability to collect child support and alimony obligations. And for those who do file for bankruptcy, this bill includes numerous new protections for them and their families. This bill

permits filers to keep their homes and provide health insurance for themselves and their families before taking their assets into account for repayment plans. This bill states that low income debtors will be exempt from many of the provisions of this bill if their median family income is below the average for their state.

This legislation represents a fair, common sense approach towards tackling the important yet complicated issues surrounding the issue of bankruptcy in a way that will benefit those working Americans who pay their bills while providing for those who cannot.

Mr. BLUMENAUER. Mr. Chairman, I support bankruptcy reform. This legislation has followed a tortured path over the last four Congresses. During this time I have voted for reform and tried to make it more fair. While I have some concerns about this latest bill, H.R. 975, and would have preferred to see improvements for further consumer protections against predatory lending and credit card marketing, the federal bankruptcy code must be reformed. Bankruptcy filings have increased from 330,000 in 1980 to more than 1.5 million last year. The cost of waiving debt through bankruptcy proceedings has resulted in higher costs for all consumers.

I have heard from Oregon's credit unions and small businesses who have made a compelling case that current bankruptcy laws result in significant costs for Oregon's businesses and consumers. Flaws in the current system allow higher-income filers to abuse the system by walking away from debts they are capable of repaying. One of many examples detailed how a credit union customer with income in excess of $100,000 per year financed home remodeling on credit cards, then filed Chapter 13 to discharge the credit card debt without having any major change in income status.

We need a cold dose of reality. People should act responsibly and pay their bills when they have the means. I will support federal and state actions against predatory lending and abusive credit practices, but we cannot dismiss personal responsibility. H.R. 975 protects low- to middle-income families, while requiring those that have the ability to repay some or all of their debt to enter into a payment plan. Our bankruptcy laws need to be overhauled and I believe this is an appropriate step forward.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise today in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. I would also like to thank Chairman SENSENBRENNER and the Judiciary Committee for their persistent efforts to make the reforms in H.R. 975 the law of the land.

In the late 1990's, personal bankruptcy filings were rising at a precipitous rate. With a record 1.4 million filings in 1998, up 500 percent from 1980, it had become evident that bankruptcy had lost the social stigma it once held. Rather than an action of last resort, it had evolved into a convenient vehicle to discharge debts through irresponsible financial practices.

Abuse of the bankruptcy system has a negative impact, not only on banks and financial institutions, but on our economy as a whole. In 1998 alone, bankruptcies were estimated to cost the United States approximately $40 billion. I understand and appreciate that there are valid reasons for individuals to file for bankruptcy protections. However, those who take advantage of the system lower the amount of available credit every citizen and raise the cost of credit, goods, and services to all consumers. Bankruptcy should not be a mere convenience or financial planning tool, but should be a safety net for those who genuinely need it.

The rationale behind this legislation is that those with the ability to pay their debts should do so. I believe Chairman SENSENBRENNER has done a good job of ensuring adequate protections remain for those in financial straights due to illness, divorce, or other legitimate reasons. At the same time, H.R. 975 will provide financial education to those who need it, help prevent corporate criminals from hiding their assets, protect those who rely on alimony and child support for survival, and take a significant step toward preventing the abuse of our Nation's bankruptcy laws.

It is time to finally reform our bankruptcy laws. I urge my colleagues to support H.R. 975.

Mr. CONYERS. Mr. Chairman, this country is a much different place than when omnibus bankruptcy reform was first introduced 6 years ago. Today, we face the longest continuous stretch of job declines in more than 50 years; the economy has lost more than 2.5 million jobs in the last 2 years; the stock market is reeling; and we have more than 40 million individuals with no health insurance. And yet, we are once again considering this special interest bill that massively tilts the playing field in the favor of creditors and against the interests of ordinary consumers and workers who are struggling to overcome financial misfortune.

No one should be surprised when I say that the bill is dangerously and fatally flawed. To those who argue the bill only punishes wealthy debtors, I tell them to read how the bill gives creditors massive new rights to bring threatening motions against low income debtors. Read how the bill permits credit card companies to reclaim common household goods which are of little value to them, but very important to the debtor's family. Read how the bill makes it next to impossible for people below the poverty line to keep their house or their car in bankruptcy.

To those who claim the bill protects alimony and child support, I would ask them if they are aware that the bill creates major new categories of nondischargeable debt that complete directly against the collection of child support and alimony payments. Whether they are aware the bill allows landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the woman's physical well being.

To those who assert the bill cracks down on credit card abuse, I would ask if they realize the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled, and nothing to regulate the practice of so-called ''subprime'' leading to persons with no means or little ability to repay their debts.

To those who suggest the bill fixes the problem of homestead exemption abuse, I would suggest that rather than repeal or even cap the homestead exemption, the bill places only weak obstacles in its place. The bill does nothing to prevent the very worst abuses in the bankruptcy code, such as bilking seniors out of billions of dollars of their life savings.

Last year 1.4 million middle-class individuals filed for bankruptcy. Their average income was less than $25,000, and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it would be a grave mistake to punish these individuals at a time of such great economic uncertainty and reward credit card companies and business lobbyists when corporate greed has already destroyed the lives of millions of American workers.

I urge every member of this body to vote against this special interest bonanza and vote in favor of the interests of ordinary, hard working Americans.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 (H.R. 975). On February 27, 2003, this Member agreed to be an original cosponsor of this legislation. This bill (H.R. 975) is the same, with one major exception, as the bankruptcy reform conference report which was agreed upon by the conferees in the 107th Congress. Specifically, the provision that addressed the nondischargeability of debts for abortion protesters was not included in H.R. 975. The controversy surrounding this provision resulted in the failure of the rule under which the bankruptcy reform conference report was to be considered by the House in the 107th Congress.

A variation of this conference report language on abortion was included in the original Senate-passed bankruptcy bill in the 107th Congress at the initiative of the gentleman from New York (Mr. SCHUMER). It absolutely amazed and discouraged this Member that a supposed nexus between the subject of abortion and bankruptcy was found by this gentleman from New York which effectively doomed bankruptcy reform legislation in the 107th Congress.

It is important to note that bankruptcy reform bills passed both the House and the Senate in the 105th and 106th Congresses. In the 105th Congress, the House passed a bankruptcy reform conference report, while the Senate failed to pass the conference report. In the 106th Congress, former President Bill Clinton pocket vetoed a bankruptcy reform conference report.

First, this Member would thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee for both introducing this bankruptcy legislation and for his efforts in bringing H.R. 975 to the House Floor for consideration.

This Member supports H.R. 975 for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision in H.R. 975 which provides for a means testing (needs-based) formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. Chapter 7 bankruptcy allows a debtor to be discharged of his or hers personal liability for many unsecured debts. In addition, there is no requirement that a Chapter 7 filer repay many of his or her debts. However, Chapter 13 bankruptcy filers commit to repay some portion of his or her debts under a repayment plan.

Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then proceeds to take a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the needs-based test of H.R. 975 will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account to determine whether he or she has the capacity to repay a portion of their debts.

Second, this Member supports the additional monthly expense items that are exempted from consideration under the needs-based test which determines, under H.R. 975, whether a person can file either a Chapter 7 or 13 version of bankruptcy. These expenses include the following: reasonable expenses incurred to maintain the safety of the debtor and debtor's family from domestic violence; an additional food and clothing allowance if demonstrated to be reasonable and necessary; and actual expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Third, this Member supports the permanent extension of Chapter 12 bankruptcy in H.R. 975 since it allows family farmers to reorganize their debts as compared to liquidating their assets. Using the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, its expiration on June 30, 2003, would be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option but to end their operations, it likely will also cause land values to plunge. Such a decrease in value of farmland will affect the ability of family farmers to obtain adequate credit to maintain a viable farm operational. It will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nations farm families. It is clear that the agricultural sector is hurting and by a permanent extension of the Chapter 12 authorization, Congress can avoid one more negative possibility.

Lastly, this Member supports the provision in H.R. 975 which requires that people convicted of a felony or who owe a debt from a securities fraud violation in the five years before filing for bankruptcy cannot claim an unlimited homestead exemption. As of last year, there were only six states, including Texas and Florida, which provided unlimited bankruptcy protection for a person's home. (Nebraska is not one of those six states as it has a maximum homestead exemption of $12,500.) This Member believes that this provision in H.R. 975 is imperative in light of the corporate scandals at Enron and WorldCom in year 2002. For example, this provision would apply to the $7 million penthouse in Houston of Kenneth Lay, the former chairman of Enron, if he both files for personal bankruptcy in the future and owes a debt due to any conviction of securities fraud. In addition, this provision may also be relevant to Scott D. Sullivan, the former chief financial officer of WorldCom, who, as of last year, was building a $15 million mansion in Boca Raton, Florida.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support H.R. 975.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 975

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

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

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2003''.

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

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

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

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

and

(2) in subsection (b)—

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

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

(i) in the first sentence—

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

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,'' after ''consumer debts''; and

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

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

(C) by adding at the end the following:

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

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

''(II) $10,000.

''(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

''(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

''(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

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

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

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

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

divided by 60.

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

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

''(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

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

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

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

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

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

''(II) $10,000.

''(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

''(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

''(i) a trustee files a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants such motion; and

''(II) finds that the action of the attorney for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

''(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

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

''(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

''(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

''(ii) determined that the petition, pleading, or written motion—

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

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

''(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

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

''(ii) the court finds that—

''(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

''(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

''(C) For purposes of this paragraph—

''(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

''(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

''(II) is engaged in commercial or business activity; and

''(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

''(I) a parent corporation; and

''(II) any other subsidiary corporation of the parent corporation.

''(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

''(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(b)(1) With respect to a debtor who is an individual in a case under this chapter—

''(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

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

''(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

''(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.''.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

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

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

''(7) the action of the debtor in filing the petition was in good faith;''.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting ''to unsecured creditors'' after ''to make payments''; and

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

''(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

''(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

''(ii) for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

''(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

''(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

''(A) such expenses are reasonable and necessary;

''(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

''(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

''(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

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

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

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

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

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

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

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

''(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.''.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

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

''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

''(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

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

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

''(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.''.

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

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).''.

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

''(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

''(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.''.

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

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

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

''(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

''(2) instructional courses concerning personal financial management currently approved by

the United States trustee (or the bankruptcy administrator, if any), as applicable.

''(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

''(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

''(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

''(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

''(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

''(A) has met the standards set forth under this section during such period; and

''(B) can satisfy such standards in the future.

''(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

''(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

''(A) have a board of directors the majority of which—

''(i) are not employed by such agency; and

''(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

''(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

''(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

''(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

''(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

''(G) demonstrate adequate experience and background in providing credit counseling; and

''(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

''(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

''(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

''(A) trained personnel with adequate experience and training in providing effective instruction and services;

''(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

''(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

''(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

''(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

''(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

''(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

''(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

''(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(A) any actual damages sustained by the debtor as a result of the violation; and

''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.

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

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

''(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.''.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

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

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

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the date of the filing of the petition; and

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

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

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

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).''.

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

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

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

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required

by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

''(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

''(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

''(2) such act is in the ordinary course of business between the creditor and the debtor; and

''(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.''.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;''; and

(2) by adding at the end the following:

''(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

''(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

''(3) The disclosure statement required under this paragraph shall consist of the following:

''(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

''(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

''(C) The 'Amount Reaffirmed', using that term, which shall be—

''(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

''(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

''(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

''(i) 'The amount of debt you have agreed to reaffirm'; and

''(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

''(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

''(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

''(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

''(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

''(i) by making the statement: 'Your first payment in the amount of $_____ is due on _____ but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

''(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

''(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: 'Note: When this disclosure refers to what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.'.

''(J)(i) The following additional statements:

''''Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

''''1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

''''2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

''''3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

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

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

''''6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

''''7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

''''Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

''''What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

''`Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

''`What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

''(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

''`6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

''(4) The form of such agreement required under this paragraph shall consist of the following:

''`Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

''`Brief description of credit agreement:

''`Description of any changes to the credit agreement made as part of this reaffirmation agreement:

''`Signature: Date:

''`Borrower:

''`Co-borrower, if also reaffirming these debts:

''`Accepted by creditor:

''`Date of creditor acceptance:'.

''(5) The declaration shall consist of the following:

''(A) The following certification:

''`Part C: Certification by Debtor's Attorney (If Any).

''`I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

''`Signature of Debtor's Attorney: Date:'.

''(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

''(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

''(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

''`Part D: Debtor's Statement in Support of Reaffirmation Agreement.

''`1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

''`2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

''`I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

''`Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

''`I am not represented by an attorney in connection with this reaffirmation agreement.

''`I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

''`Therefore, I ask the court for an order approving this reaffirmation agreement.'.

''(8) The court order, which may be used to approve such agreement, shall consist of the following:

''`Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

''(l) Notwithstanding any other provision of this title the following shall apply:

''(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

''(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

''(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of such agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

''(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

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

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

''(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

''(1) the United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

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

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

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

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

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

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;''.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

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

(1) by striking paragraph (7);

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

(3) in paragraph (2), as so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so redesignated—

(A) by striking ''Third'' and inserting ''Fourth''; and

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

(6) in paragraph (5), as so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

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

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

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

''(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.'';

(2) in section 1208(c)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(3) in section 1222(a)—

(A) in paragraph (2), by striking ''and'' at the end;

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

''(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) in section 1225(a)—

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

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

(C) by adding at the end the following:

''(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(8) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

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

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and'';

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

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

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

''(ii) for the establishment or modification of an order for domestic support obligations;

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

''(B) of the collection of a domestic support obligation from property that is not property of the estate;

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

''(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

''(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;''.

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

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

(1) in subsection (a)—

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

''(5) for a domestic support obligation;''; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

(B) by inserting ''or'' after ''court of record,''; and

(C) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

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

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

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));'';

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''; and

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

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

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

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;''.

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date of the filing of the petition'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

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

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

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

(1) in subsection (a)(1), by striking ''or an employee of an attorney'' and inserting ''for the debtor or an employee of such attorney under the direct supervision of such attorney'';

(2) in subsection (b)—

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

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person, or partner.''; and

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

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

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

''(iii) shall—

''(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

''(II) be filed with any document for filing.'';

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.''; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

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

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

''(i) whether—

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

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

''(ii) whether the debtor's debts will be discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(6) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

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

''(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as so redesignated—

(i) by striking ''Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as so redesignated, and inserting the following:

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

''(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

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

(C) by inserting after paragraph (2) the following:

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).''; and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

''(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

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

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

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

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end the following:

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

''(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

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

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

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

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

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

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or''.

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

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

''(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

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

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

''(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

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

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

''(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

''(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections'' each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(A) the services that such agency will provide to such person; or

''(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

''(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(d) No provision of this section, section 527, or section 528 shall—

''(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1); and

''(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

''(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

'''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

'''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

''''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

''''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

''(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a

service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

''§ 112. Prohibition on disclosure of name of minor children

''The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112'' after ''section''.

TITLE III —DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

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

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

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

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

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

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

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

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

(3) by adding at the end the following:

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

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

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

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

''(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

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

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

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

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

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

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

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

SEC. 303. CURBING ABUSIVE FILINGS.

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

(1) in paragraph (2), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of

the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

''(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

''(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)'';

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subjection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

''(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

''(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

''(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.''; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking ''consumer'';

(B) in subsection (a)(2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C) by inserting '', except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

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

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

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

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real property is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsections (o) and (p),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(3) a burial plot for the debtor or a dependent of the debtor; or

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

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

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

(2) in subparagraph (B)—

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

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

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

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

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

''(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

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

''(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

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

''(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

''(A) proposed by the plan to the trustee;

''(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

''(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

''(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

''(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

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

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

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

''(ii) for purposes of this subparagraph—

''(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

''(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

''(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

''(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

''(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;''.

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

''(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

''(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

''(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

''(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

''(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

''(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

''(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the

lessor to complete the process to recover full possession of the property; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

''(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

''(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

''(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

''(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

''(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

''(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

''(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

''(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

''(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

''(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

''(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

''(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

''(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

''(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

''(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

''(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

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

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

''(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

''(xv) 1 personal computer and related equipment.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor, or any relative of the debtor);

''(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

''(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);''.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

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

''(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

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

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

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

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

(C) by adding at the end the following:

''(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

''(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.''; and

(2) by adding at the end the following:

''(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

''(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

''(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to

such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

''(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

''(3) A notice filed under paragraph (1) may be withdrawn by such entity.

''(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

''(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

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

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

''(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

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

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

''(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

''(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

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

(2) by adding at the end the following:

''(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

''(2)(A) The debtor shall provide—

''(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

''(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

''(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

''(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

''(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

''(A) at a reasonable cost; and

''(B) not later than 5 days after such request is filed.

''(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

''(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

''(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

''(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

''(4) in a case under chapter 13—

''(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

''(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

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

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

''(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

''(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

''(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

''(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

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

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

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

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

''(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1325(b)(1)(B), by striking ''three-year period'' and inserting ''applicable commitment period''; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

''(4) For purposes of this subsection, the 'applicable commitment period'—

''(A) subject to subparagraph (B), shall be—

''(i) 3 years; or

''(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4; and

''(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.''; and

(4) in section 1329(c), by striking ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

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

(2) by adding at the end the following:

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

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

''(B) such 60-day period is extended—

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

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

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§1115. Property of the estate

''(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

''(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

''(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section''.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor who is an individual''; and

(2) by adding at the end the following:

''(5) In a case in which the debtor is an individual—

''(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

''(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

''(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

''(ii) modification of the plan under section 1127 is not practicable; and''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.''.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

''(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was

acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(C) a burial plot for the debtor or a dependent of the debtor; or

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

''(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by an employer from employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title;''.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) by striking subsection (e) and inserting the following:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

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

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b)'' and all that follows through ''28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

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

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

(C) by striking paragraph (4);

(3) in subsection (d)—

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

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

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

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) expressly does not require to be cured'' before the semicolon at the end;

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

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate including—

''(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;''.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods'' after ''consent of a creditor''; and

(3) by adding at the end the following:

''(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, or any successor to such section 7–209.''.

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(A) In'' and inserting ''In''; and

(B) by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(2) by adding at the end the following:

''(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.''.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 409. PREFERENCES.

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

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

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (8), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a debt (excluding a consumer debt) against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (2), on''; and

(2) by adding at the end the following:

''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

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

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

(2) by adding at the end the following:

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

''(B) Upon the filing of a report under subparagraph (A)—

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

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

''(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of the filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.''.

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.''.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(2) by striking subsection (f), and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§308. Debtor reporting requirements

''(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(b) A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4)(A) whether the debtor is—

''(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''§1116. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns and other required government filings; and

''(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the court shall confirm a plan that complies with the applicable

provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).''.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

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

(1) in paragraph (3)—

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

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and'';

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

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', may''; and

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

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

''(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(i) for which there exists a reasonable justification for the act or omission; and

''(ii) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, the term 'cause' includes—

''(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.

''(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.''.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

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

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

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

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);''.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

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

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

(3) by adding after paragraph (6) the following:

''(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

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

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562,'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

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

''§ 159. Bankruptcy statistics

''(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

''(b) The Director shall—

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

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

''(3) not later than July 1, 2006, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

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

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

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

''(3) include information concerning—

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

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

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

''(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

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

''(ii)(I) the total number of reaffirmation agreements filed;

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

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

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

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

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

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.''.

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

''159. Bankruptcy statistics.''.

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

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

''(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;
''(3) assets exempted;
''(4) receipts and disbursements of the estate;
''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;
''(6) claims asserted;
''(7) claims allowed; and
''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

''(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;
''(2) length of time the case has been pending;
''(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;
''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;
''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;
''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and
''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003;''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

''(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor serving under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

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

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''511. Rate of interest on tax claims.''.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of the filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of the filing of the petition''; and

(C) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.''; and

(2) by adding at the end the following:

''An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking ''paragraph'' and inserting ''section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

''(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

''(B) for a tax or customs duty with respect to which the debtor—

''(i) made a fraudulent return; or

''(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking ''the debtor'' and inserting ''a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title''.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by striking ''deferred cash payments,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

''(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i), by inserting ''or given'' after ''filed''; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

''(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

''(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,'' after ''records,''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

''§ 346. Special provisions related to the treatment of State and local taxes

''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1)

to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

''346. Special provisions related to the treatment of State and local taxes.''.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

''(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

''(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

''(2) indicate whether secured creditors need to file proofs of claim; and

''(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 1515. Application for recognition

''(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 1517. Order granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body; and

''(3) the petition meets the requirements of section 1515.

''(b) Such foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. Subsequent information

''From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

''(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

''(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

''§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

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

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

''§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

''(1) in which the debtor has its principal place of business or principal assets in the United States;

''(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

''(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(2) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in

this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

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

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

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

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that

term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

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

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking ''; or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or equity swap, option, future, or forward agreement;

''(V) a debt index or debt swap, option, future, or forward agreement;

''(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) any combination of the agreements or transactions referred to in this subparagraph;

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master

agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(C) by inserting ''or financial participant'' after ''swap participant''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and

a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).''.

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

''§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of

the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric, or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any individual who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''§ 351. Disposal of patient records

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to

deposit such records with that agency, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''351. Disposal of patient records.''.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

''(A) in disposing of patient records in accordance with section 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

''§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

''(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title the following definitions shall apply:'';

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

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

(4) in each of paragraphs (35A), (38), and (54A), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

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

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

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

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

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

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

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

SEC. 1203. EXTENSION OF TIME.

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

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking ''attorney's'' and inserting ''attorneys''.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

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

SEC. 1207. EFFECT OF CONVERSION.

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

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

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

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

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

SEC. 1210. EFFECT OF DISCHARGE.

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

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

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

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

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

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

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

(2) by adding at the end the following:

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

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

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

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

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

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

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

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

SEC. 1216. GENERAL PROVISIONS.

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

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

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

SEC. 1218. CONTENTS OF PLAN.

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

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

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

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

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

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

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

(1) in the first undesignated paragraph—

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

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

(2) in the second undesignated paragraph—

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

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

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 2003''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of the United

States for the circuit in which such district is located.''; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3''; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;''.

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

''(A) not later than 45 days after the date of receipt of such goods by the debtor; or

''(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

''(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

''(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

''(A) the tangible personal property is in the possession of the pledgee or transferee;

''(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

''(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or''.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

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

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the

first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from

whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

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

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent

location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–42. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–42.

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Strike section 901 of the bill, as reported, and all that follows through section 905 and insert the following new sections:

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Board determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII),

or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by suchclearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the

United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap,future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting

''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (12)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Board''.

SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(B) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking ''other than paragraph (12) of this subsection, subsection (b)(9)'' and inserting ''other than subsections (b)(9) and (c)(10)''; and

(B) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

''(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

''(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

''(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.''.

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A credit union organized by the Board, for which a conservator is appointed either—

''(I) immediately upon the organization of the credit union; or

''(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a

party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

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

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the credit union in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

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

''(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

In the amendment made by section 906(b)(1) of the bill to section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(b)(2) of the bill, adding a new subsection (f) at the end of section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(c)(1) of the bill to section 404(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(c)(2) of the bill, adding a new subsection (h) at the end of section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, strike ''trust company, or receiver'' (where such term appears in subparagraph (A) of the paragraph proposed to be inserted) and insert ''trust company, federally-insured credit union, or receiver, liquidating agent,''.

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, insert ''liquidating agent,'' after ''receiver,'' (the 2d place such term appears in subparagraph (A) of the paragraph proposed to be inserted).

In section 908 of the bill, strike ''Section 11(e)(8)'' and insert ''(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)''.

Insert the following new subsection at the end of section 908 of the bill:

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).''.

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Pennsylvania (Mr. TOOMEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I yield myself such time as I may consume.

I want to discuss briefly the derivative transactions which this amendment addresses. I should point out that with the possible exceptions of mutual funds, derivatives contracts, including over-the-counter derivatives, are perhaps the most important, creative and innovative development in finance in the last 30 years. Derivatives are financial contracts used by parties wishing to hedge the risk of fluctuations in the value of some commodity, often a financial commodity such as interest rates.

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

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

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I am happy to support the gentleman's amendment. I think it makes a useful addition to this legislation. Basically it extends the types of protections that are contained in the bill to credit unions. I think that this plugs a loophole. I hope that his amendment is approved.

Mr. TOOMEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does any Member seek the time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–42.

Does any Member in the Chamber seek to offer the amendment?

It is now in order to consider amendment No. 3 printed in House Report 108–42.

AMENDMENT NO. 3 OFFERED BY MR. CANNON

Mr. CANNON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CANNON:
Add at the end the following:

TITLE ___—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. ___01. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

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

(1) in paragraph (3) by striking ''90'' and inserting ''180'', and

(2) in paragraphs (3) and (4) by striking ''$4,000'' and inserting ''$10,000''.

SEC. ___02. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking ''one year'' and inserting ''2 years'',

(2) in subsection (a)—

(A) by inserting ''(including any transfer to or for the benefit of an insider under an employment contract)'' after ''transfer'' the 1st place it appears, and

(B) by inserting ''(including any obligation to or for the benefit of an insider under an employment contract)'' after ''obligation'' the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking ''or'' at the end,

(B) in subclause (III) by striking the period at the end and inserting ''; or'', and

(C) by adding at the end the following:

''(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.''.

SEC. ___03. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

''(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

''(1) modified retiree benefits; and

''(2) was insolvent on the date such benefits were modified; the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.''.

SEC. ___04. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

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

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 3(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Utah (Mr. CANNON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah (Mr. CANNON).

□ 1500

Mr. CANNON. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. CANNON. Mr. Chairman, this amendment which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, Global Crossing, and others. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefits.

Mr. Chairman, I have an amendment made in order by the rule and ask for its immediate consideration.

This amendment, which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, and Global Crossing. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reachback period for wage claims from 90 days to 180 days.

The second provision of the amendment benefits employees and creditors alike. It increases the reachback period during which fraudulent transfers can be rescinded from one to two years and provides that outrageous compensation payments, bonuses and other perks given to a corporation's insiders during the reachback period can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

The third component of this amendment requires the court to reinstate retiree benefits that a corporate debtor modified within the 180-day period preceding the bankruptcy filing, unless the balance of the equities justifies the modification.

These provisions reflect sound bankruptcy policy and effectuate meaningful reforms. I urge my colleagues on both sides of the aisle to support this amendment.

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

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

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I believe this is also a constructive amendment and would hope that the committee would approve it. It increases a wage priority. It strengthens the law to make voidable fraudulent transfers and excessive compensation and also provides better protection for employee health care benefits. All three of these I believe are very good ideas, and I would urge that the amendment be approved.

The CHAIRMAN. Does any Member seek the time in opposition to the amendment offered by the gentleman from Utah?

Mr. CANNON. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I appreciate the gentleman yielding me this time.

I want to commend him and congratulate him for his leadership on this issue. I believe this is a very sound amendment. It is a good initial step, and I would seek the time for the purpose of engaging in a colloquy with my friend, the gentleman from Utah.

Mr. Chairman, by increasing the monetary cap on wage and employee benefit claims and lengthening the reach-back period for wage claims, the amendment increases the likelihood that lower-wage workers would get back some of the money they are owed. That is an excellent start. But at some later point, I hope in time for the House-Senate conference on this bill, I would like us to focus on the treatment of severance payments under current bankruptcy law. Some Courts have held that these payments should be prorated over the entire course of the individual's employment. As a result, only the small fraction of the severance payment that is attributed to the reach-back period may be treated as a priority claim, which unfortunately means that the employees receive much less than the monetary cap. This is a concern I hope we can address.

Would the gentleman be prepared to continue to work together so that this problem might be addressed when the bill goes to conference?

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, I thank the gentleman for his work on the amendment, and I would like to continue to work with him. In particular, I would like to consider how this issue, while it might be clarified, given the complexity of the issue, I would recommend that our subcommittee consider possible solutions either formally perhaps through a hearing process or informally, and I would certainly hope that we could do so in time to fine-tune our amendment while the bill is in conference.

Mr. DELAHUNT. Mr. Chairman, as the gentleman knows, I authored legislation in the last Congress that would address in a more thorough and comprehensive way the effects of corporate bankruptcies on workers and retirees. At our markup on H.R. 975, the gentleman indicated a willingness to explore these questions, and I would ask the gentleman whether he would be willing to schedule hearings beginning in the spring in which we could begin to talk about this overall issue.

Mr. CANNON. Mr. Chairman, I think we have made a good start with this amendment, and it is my intention to schedule hearings as early as possible this year on issues presented by corporate bankruptcies and their impact on workers and retirees and to consider measures that could begin to address the problem in a more systematic way.

Mr. DELAHUNT. Mr. Chairman, again I thank the gentleman for his answers and for his genuine commitment to providing relief for workers and retirees, and possibly we could have a field hearing on this particular initiative on Cape Cod either in May or June sometime.

Mr. Chairman, I am pleased to join with the gentleman from Utah (Mr. CANNON) in offering this amendment. It would restore a modicum of balance to this unfair, unbalanced bill.

The sponsors of the bill say they advocate personal responsibility. Yet the bill does nothing to curb the corporate abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

It does nothing to stop corporate insiders from stripping their companies of their assets,

paying themselves exorbitant salaries and bonuses and leaving little or nothing for their workers.

It does nothing to compensate workers whose jobs, pensions, health insurance and life savings have been wiped out by corporate bankruptcies.

The amendment represents a first, modest, effort to restore some balance. To recognize the obligations that an enterprise owes to the working people who have labored to build and sustain it.

The amendment will increase the chances that employees and retirees whose companies collapse into bankruptcy are able to retrieve some portion of what they are owed for back wages and benefits. And it will provide the courts with additional tools to recapture excessive compensation paid to corporate insiders. And I commend the gentleman from Utah for his willingness to offer it.

As the gentleman has explained, this amendment consists of three components. The first increases the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000, and lengthens the reachback period for wage claims from 90 to 180 days. This change increases the likelihood that workers—particularly those at the lower end of the wage scale—would actually see some of the money they are owed.

The second component lengthens the reachback period during which fraudulent transfers can be rescinded, from one year to two years, and provides that certain bonuses and other payments to corporate insiders can be rescinded during this period if they meet certain criteria. This provision gives the bankruptcy courts an additional tool for recapturing excessive compensation paid to officers and directors so that these can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors.

The third component requires the court to reinstate retiree benefits—including health and pension plans—which the company modified within the 180-day period preceding the bankruptcy filing, unless the court finds that the balance of the equities justifies the modification. This provision prevents corporate debtors from evading the requirements of current law by terminating retiree benefit plans on the eve of bankruptcy.

These are good, sensible changes that will help people who lose their livelihood, their savings, and their health coverage. I sincerely appreciate the willingness of the gentleman from Utah to join in this effort. But as I'm sure he would agree, these changes are only a modest step—a baby step—and I hope we can continue to work together to address this issue in a more serious and comprehensive way.

Mr. CANNON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. CANNON).

The amendment was agreed to.

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 108–42.

AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SHERMAN: Add at the end the following:

TITLE ___—

SEC. ___. LOCAL FILING OF BANKRUPTCY CASES.

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

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

''(a) Except'';

(2) in paragraph (2), by inserting ''as defined in section 101(2)(A) of title 11'' after ''affiliate''; and

(3) by adding at the end the following:

''(b) For purposes of subsection (a)—

''(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

''(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.''.

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

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

''(a) A''; and

(2) by adding at the end the following:

''(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

''(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

''(d) As used in this section—

''(1) the term ''district court'' includes—

''(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

''(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, including any bankruptcy judge of each such court; and

''(2) the term ''district'' includes the territorial jurisdiction of each such court.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

I had a chance to address the House earlier thanks to the generous time allotment from the gentleman from Massachusetts.

This amendment really puts before us a question. Should we stick with a present system that is favorable to one or two jurisdictions because they have particularly demanding Members both perhaps in this House and certainly in the other House, or should we vote for our own States, for our own districts, and for the greater public interest? The question is where, when a corporation goes bankrupt, should they file their case. One would say, as this amendment says, file where the corporation is located, where the majority of its assets are located and if it is a group of corporations, where the largest of them is located. The present system has a different approach. That approach says that, with some careful planning, the corporation can file anywhere it wants to. If it happens to form a little shell subsidiary in this or that State, then they can file anywhere in that State.

What is the effect of that? It means that when Enron goes bankrupt, owing local businesses in Houston, they have to go to an east coast State to try to present their case. But worse than the inconvenience, this is a situation where referees are selected by one of the teams, and Enron is able to select the jurisdiction that provides for the largest attorney fees and the largest retention bonuses.

Of course the Court could decline to take the case, transfer it back to Houston. But instead, these bankruptcy courts are fighting for business. They are behaving like businesses. They are welcoming additional cases, providing additional fees to their particular courts, and they are not about to send a juicy case back to its legitimate at-home jurisdiction. I ask all Members to vote for this amendment when they come to the floor.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to this amendment. This amendment undoes a carefully crafted compromise that was done during conference with the other body. I want to see a bill passed. Most of the people in this House who voted on this issue want to see a bill passed. I will say very practically that the adoption of the Sherman amendment will make it more difficult for a bill to be passed and signed into law by the President of the United States.

On the merits, there are two reasons why we do not have need to have a change in the venue laws. First of all, title XXVIII, which I referred to during the general debate, gives the district court the opportunity to approve a change of venue to another jurisdiction for the convenience of the parties and the people who have business before the court. This is not a bankruptcy judge that is interested in fees. This is a Federal district judge who is able to order a change in venue. So it is out of the bankruptcy court, and it is into the district court.

The second reason why this amendment is not good policy on the merits

is the fact that there are certain jurisdictions where the bankruptcy courts are overloaded. One of the things that people who file for Chapter 11 or Chapter 13 want to see happen is they want to see their reorganizations to be approved quickly so that they could get out of bankruptcy and thus continue on with their business; and if there is a huge backlog in the court, that is going to be delayed and perhaps delayed an inordinate amount of time before the court can get to approving reorganization plans to get the corporation out of bankruptcy. So I think from a practical standpoint, corporations that want to get to Chapter 11 quickly will not go to the overloaded courts. The current venue statute gives them the flexibility of choosing where they are going to file. It ought to be maintained.

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

Mr. SHERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time.

Talking about the practical impact of the gentleman's amendment, it would end the practice of forum shopping; but even more meaningful, it would provide in very real terms an opportunity for small creditors, for retirees, for shareholders and others to participate in the process itself. Why should a court, with all due respect, in Delaware adjudicate a corporate bankruptcy that wipes out thousands of jobs in Ohio? Why should a judge in New York decide how to divide the spoils of an insolvent corporation in Massachusetts? The bankruptcy business, and it truly is a business, has been a windfall for certain jurisdictions; and they understandably resist any effort to reform the venue rules, but the rest of us ought to protect our constituents from this particular abuse, and I urge support for the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I am pleased to rise to oppose this legislation for a variety of reasons. First of all, Congress should not discriminate against bankruptcy cases. Virtually all of our laws allow cases to be filed either where the company is headquartered, where their assets are, or where it is incorporated. Why would we want to single out bankruptcy cases for discriminatory treatment?

A second point, one made by the gentleman from Wisconsin (Mr. SENSENBRENNER), is our current law is already fair. The law already allows debtors to change the location of where bankruptcy cases are heard by filing a motion to transfer venue. Therefore, this amendment is not necessary to give debtors a fair forum to argue their case. A third point is that 63 percent of bankruptcy judges disagree with the amendment. When surveyed by the Judicial Conference, 63 percent of those surveyed, the bankruptcy judges, oppose changing the rules on where corporations can file bankruptcy. We need to listen to the experts who have to hear these cases every day.

And then there is another fact, Mr. Chairman, and that is that in 1973 Congress voted to restrict options for where bankruptcies could be filed. It was such a failure that Congress repealed the change in 1978. Why would we want to repeal that mistake?

In addition to all of those absolutely valid legal reasons before us today with respect to the bankruptcy laws, there is another reason that the gentleman from Wisconsin (Mr. SENSENBRENNER) has already explained and that is that this whole bankruptcy bill, and we have learned in these debates here today that it has been a long time, has been very carefully negotiated with a compromise. Various new bankruptcy judges have been added where they are needed in order for the courts to be able to keep up their pace in a variety of States across the United States of America.

For all of these absolutely valid reasons in terms of the integrity of the Federal laws of the United States with respect to all of our courts, all of our laws and particularly bankruptcy laws, I would urge everyone in this Chamber to oppose the Sherman amendment when it comes up for a vote.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to the arguments but remind my colleagues when they come for a vote that they should vote for the interests of their own State and for their own constituents, and we should not send a bill to the other body just because we have created it so that one particular Senator will not object, one particular State will not be concerned. We need to pass the best public policy product we can from this House.

□ 1515

Now, what has happened under the present law is the beginning of an abomination. Right now, only 30 percent of the large corporations that have gone bankrupt have filed locally. Virtually none that filed thousands of miles away have been sent back to their locality, and for 70 percent of the large business bankruptcies, you have to go thousands of miles from where the company is headquartered.

Not only is this inconvenient, but it causes a race to the bottom. Today it may be Delaware allowing hundreds of millions of dollars of retention bonuses. Tomorrow it may be California outbidding Delaware for the bankruptcy business by providing more hundreds of millions of dollars of retention bonuses; not $500 per hour fees, but $1,000 fees. And to say that a district court can send the business back is like saying, I am going to walk into a McDonald's, and they are going to tell me that, in the interest of justice, I should go get a salad around the corner from another provider.

Once a court gets the business, they are not going to give it up, and that is why if we are going to have business bankruptcies proceed in a way that is fair to local creditors, fair to local employees and avoid a spiral to the bottom of larger and larger law fees, larger and larger retention bonuses, we need to tell the corporation that they must go to the bankruptcy court in their own local area. It is not a situation where one of the teams gets to pick the referees. That is not a fair system.

So far we have had only minor abominations, only $100 million, $200 million retention bonus packages approved. In the future, as my State fights with the State of the gentleman from Delaware (Mr. CASTLE) for business, maybe my State will approve larger bonuses.

Mr. Chairman, I would say to Members, come to the floor, vote for a sound policy that distributes the bankruptcy work to the place in which the large corporation goes bankrupt. Vote for the interests of your own home constituents. Vote for this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The time of the gentleman from California has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, as I think is known, I disagree on just about every other aspect of this bill, including whether it is desirable at all, with the distinguished chairman, but on this amendment I have to join him in opposition.

There is no good reason to go away in bankruptcy from the normal venue laws, number one, and make bankruptcy an exception to the venue laws in general.

Two, the debtor now can choose several different places; the principal place of incorporation where he has the principal place of business, et cetera.

Three, he can always ask the court to change it.

Four, courts are not businesses. They are not looking for business. They are not looking for volume. In fact, courts in Delaware are sending cases elsewhere because they are overcrowded.

Mr. Chairman, there is no good reason and a lot of harm that will come from adopting this amendment. I urge my colleagues to vote against it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am going to quit while I am ahead. The gentleman from New York agrees with me that this amendment is a bad one. There is no more that I can say but to urge the membership once again to vote against it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

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

Mr. SHERMAN. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. SHERMAN) will be postponed.

The point of no quorum is considered withdrawn.

Mr. GUTIERREZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CASTLE) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER CONSIDERATION OF AMENDMENT NO. 2 DURING FURTHER CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes its consideration of H.R. 975, that I be permitted to offer amendment No. 2 printed in House Report 107–42.

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

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 975.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, a request for a recorded vote on amendment No. 4 printed in the House Report 108–42 offered by the gentleman from California (Mr. SHERMAN) had been postponed.

Under the order of the House of today, it is now in order to consider amendment No. 2 printed in House Report 108–42.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer Amendment No. 2.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GUTIERREZ:

Subsection (b) of section 1234 (Involuntary Cases) of H.R. 975 is amended by striking ''shall not apply with respect to cases commenced under title 11 of the United States Code before such date'' and inserting ''shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this noncontroversial amendment changes the effective date on the involuntary bankruptcy provision of H.R. 975, also known as section 1234. My amendment is identical to language that was included in the corresponding provision, section 1233, of H.R. 5745.

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

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

Mr. SENSENBRENNER. Mr. Chairman, this is a constructive amendment. I urge the committee to adopt it.

Mr. GUTIERREZ. Mr. Chairman, reclaiming my time, if there is no objection, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone claim the time in opposition?

If not, the question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 108–42.

AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 5 in the nature of a substitute offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2003''.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

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

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

and

(2) in subsection (b)—

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

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

(i) in the first sentence—

(I) by striking ''but not'' and inserting ''or'';

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

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

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

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

''(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

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

''(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

''(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 60-day period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

''(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(b)(1) With respect to a debtor who is an individual in a case under this chapter—

''(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

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

''(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

''(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.''.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

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

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

''(7) the action of the debtor in filing the petition was in good faith;''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

''(A) such expenses are reasonable and necessary;

''(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

''(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

''(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

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

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

SEC. 103. NOTICE OF ALTERNATIVES.

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

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

''(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.''.

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of

the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 105. CREDIT COUNSELING.

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

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

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

''(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

''(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

''(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

''(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

''(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

''(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

''(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

''(A) has met the standards set forth under this section during such period; and

''(B) can satisfy such standards in the future.

''(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

''(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

''(A) have a board of directors the majority of which—

''(i) are not employed by such agency; and

''(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

''(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

''(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

''(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

''(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

''(G) demonstrate adequate experience and background in providing credit counseling; and

''(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

''(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

''(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

''(A) trained personnel with adequate experience and training in providing effective instruction and services;

''(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective; and

''(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

''(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

''(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

''(B) is otherwise likely to increase substantially the debtor's understanding of personal financial management.

''(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

''(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

''(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(A) any actual damages sustained by the debtor as a result of the violation; and

''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.

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

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

''(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.''.

SEC. 106. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 202. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

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

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

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt;''.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

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

(1) by striking paragraph (7);

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

(3) in paragraph (2), as so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so redesignated—

(A) by striking ''Third'' and inserting ''Fourth''; and

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

(6) in paragraph (5), as so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

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

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

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

''(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.'';

(2) in section 1208(c)—

(A) in paragraph (8), by striking ''or'' at the end;

(B) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(3) in section 1222(a)—

(A) in paragraph (2), by striking ''and'' at the end;

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

''(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) in section 1225(a)—

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

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

(C) by adding at the end the following:

''(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

(A) in paragraph (9), by striking ''or'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.'';

(8) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

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

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and'';

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

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

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

''(ii) for the establishment or modification of an order for domestic support obligations;

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

''(B) of the collection of a domestic support obligation from property that is not property of the estate;

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

''(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

''(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;''.

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

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

(1) in subsection (a)—

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

''(5) for a domestic support obligation;''; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

(B) by inserting ''or'' after ''court of record,''; and

(C) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

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

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

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));'';

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''; and

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

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

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

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;''.

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date of the filing of the petition'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.''.

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

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

''(i) the granting of the discharge;

''(ii) the last recent known address of the debtor;

''(iii) the last recent known name and address of the debtor's employer; and

''(iv) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

''(II) was reaffirmed by the debtor under section 524(c).

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

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

(1) in subsection (b)—

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

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person, or partner.''; and

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

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

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

''(iii) shall—

''(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

''(II) be filed with any document for filing.'';

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.''; and

(B) by striking paragraph (3);

(3) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(4) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

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

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

''(i) whether—

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

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

''(ii) whether the debtor's debts will be discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(5) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(6) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(7) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

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

''(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as so redesignated—

(i) by striking ''Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as so redesignated, and inserting the following:

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

''(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,'';

(8) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(9) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

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

(C) by inserting after paragraph (2) the following:

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).''; and

(10) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

''(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

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

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

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

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) by adding at the end the following:

''(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end the following:

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

''(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in

clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

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

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

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

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

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

''(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or''.

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

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

''(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

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

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

''(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

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

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

''(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

''(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is

amended by inserting ''101(3),'' after ''sections'' each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(A) the services that such agency will provide to such person; or

''(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

''(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(d) No provision of this section, section 527, or section 528 shall—

''(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1); and

''(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

''(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

'''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

'''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

'''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

'''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided

in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

''(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

''§ 112. Prohibition on disclosure of name of minor children

''The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such

auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112'' after ''section''.

TITLE III —DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

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

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

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

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

SEC. 302. CURBING ABUSIVE FILINGS.

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

(1) in paragraph (2), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

''(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;''.

SEC. 303. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 365-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 180-day period preceding that filing.''.

SEC. 304. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 305. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsections (o) and (p),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(3) a burial plot for the debtor or a dependent of the debtor; or

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.''.

SEC. 306. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

''(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

''(C) a burial plot for the debtor or a dependent of the debtor; or

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

''(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 307. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement

Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by an employer from employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title;''.

SEC. 308. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

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

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b)'' and all that follows through ''28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

SEC. 309. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 310. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

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

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

(C) by striking paragraph (4);

(3) in subsection (d)—

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

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

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

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) expressly does not require to be cured'' before the semicolon at the end;

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

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 311. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate including—

''(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 312. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

SEC. 313. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.

(a) DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.—Section 523(a) of title 11, United States Code, as amended by section 224, is amended—

(1) in paragraph (18) by striking ''or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor (including any court-ordered damages, fine, penalty, or attorney fee or cost owed by the debtor), that arises from—

''(A) the violation by the debtor of any offense described in section 244 (relating to discrimination against a person wearing the uniform of the Armed Forces), section 245 (relating to federally protected rights), section 247 (relating to damage to religious property; obstruction of persons in the free exercise of religious beliefs), or section 248 (relating to the freedom of access to clinic entrances), of title 18, United States Code;

''(B) an offense under State law that consists of conduct that would be a civil rights crime described in subparagraph (A) of this paragraph; or

''(C) a valid court order enforcing a civil rights law described in subparagraphs (A) or (B) of this paragraph.''.

(b) RESTITUTION.—Section 523(a)(13) of title 11, United States Code, is amended by inserting ''or under the criminal law of a State'' after ''title 18''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;''.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 403. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

''(iii) The court may extend the time periods specified in this paragraph if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 404. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

SEC. 405. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(A) In'' and inserting ''In''; and

(B) by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(2) by adding at the end the following:

''(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.''.

SEC. 406. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 407. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a debt (excluding a consumer debt) against a non-insider of less than $10,000,'' after ''$5,000''.

SEC. 408. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (2), on''; and

(2) by adding at the end the following:

''(2)(A) Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 409. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 410. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 411. APPOINTMENT OF ELECTED TRUSTEE.

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

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

(2) by adding at the end the following:

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

''(B) Upon the filing of a report under subparagraph (A)—

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

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

''(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 412. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of the filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.

''(5) The court may extend the time period specified in paragraph (2) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date the assurance of payment was due.''.

SEC. 413. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.''.

SEC. 414. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.''.

SEC. 415. ADMINISTRATIVE EXPENSES.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

''(A) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

''(i) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

''(ii) the services provided by the person are essential to the survival of the business; and

''(iii) either—

''(I) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

''(II) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

''(B) a severance payment to an insider of the debtor, unless—

''(i) the payment is part of a program that is generally applicable to all full-time employees; and

''(ii) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

''(C) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case.

''(2) For purposes of paragraph (1)(C), transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition shall be considered outside the ordinary course of business.''.

SEC. 416. PRIORITIES

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

(1) in paragraph (3), by striking ''$4,000'' and inserting ''$13,500'';

(2) in paragraph (3), striking ''90 days'' and inserting ''180 days'';

(3) in paragraph (4)(A), striking ''180 days'' and inserting ''360 days''; and

(4) in paragraph (4)(B)(i), by striking ''$4,000'' and inserting ''$13,500''.

SEC. 417. LOCAL FILING OF BANKRUPTCY CASES.

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

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

''(a) Except'';

(2) in paragraph (2), by inserting ''as defined in section 101(2)(A) of title 11'' after ''affiliate''; and

(3) by adding at the end the following:

''(b) For purposes of subsection (a)—

''(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

''(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.''.

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

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

''(a) A''; and

(2) by adding at the end the following:

''(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

''(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

''(d) As used in this section—

''(1) the term ''district court'' includes—

''(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

''(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, including any bankruptcy judge of each such court; and

''(2) the term ''district'' includes the territorial jurisdiction of each such court.''.

SEC. 418. ASSUMPTION AND TERMINATION OF CERTAIN CONTRACTS AND LEASES

(a) ASSUMPTION.—Section 365(c) of title 11, United States Code, is amended—

(1) by inserting ''(1) after ''(c)'';

(2) by redesignating existing paragraphs (1) through (4) as subparagraphs (A) through (D) respectively;

(3) by redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

''(2) A debtor in possession may assume, but may not assign, an executory contract or unexpired lease in the circumstances described in paragraph (1)(A).''.

(b) TERMINATION.—Clause (i) of section 365(e)(2)(A) of title 11, United States Code, is amended by inserting ''the trustee seeks to assign such contract or lease and'' before ''applicable law''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(2) by striking subsection (f), and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(b) A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4)(A) whether the debtor is—

''(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''§ 1116. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns and other required government filings; and

''(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.

''(b) The court may extend the time periods specified in paragraphs (1) and (3) of subsection (a) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances that there are beyond the debtor's control that were not foreseeable on the date of the order of relief.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted;

''(C) the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief; and

''(D) the order extending time is signed before the existing deadline has expired.''..

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3) or the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief.''.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

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

(1) in paragraph (3)—

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

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and'';

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

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor's books and records, and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', may''; and

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

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF A TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of the creditors and the estate, if the movement establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if—

''(A) the granting of such relief is not in the best interests of the creditors or the estate; or

''(B) the debtor, or another party in interest, objects and establishes that—

''(i) there is reasonable likelihood that a plan will be confirmed within the time frames established in section 1121(e) and 1129(e) of this title, or if such sections do not apply, within such a reasonable period of time; and

''(ii) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(I) for which there exists a reasonable justification for the act or omissions;

''(II) the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief; and

''(III) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, the term 'cause' includes—

''(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes

payable after the date of the filing of the petition.

''(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.''.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

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

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

(3) by adding after paragraph (6) the following:

''(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 445. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

SEC. 446. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

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

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562,'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

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

''§ 159. Bankruptcy statistics

''(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

''(b) The Director shall—

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

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

''(3) not later than July 1, 2006, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

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

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

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

''(3) include information concerning—

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

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

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

''(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

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

''(ii)(I) the total number of reaffirmation agreements filed;

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

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

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

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

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

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.''.

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

''159. Bankruptcy statistics.''.

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

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

''(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

''(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003;''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

''(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor serving under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

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

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 701. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''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.

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding pending in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

''(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

''(2) indicate whether secured creditors need to file proofs of claim; and

''(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 1515. Application for recognition

''(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 1517. Order granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body; and

''(3) the petition meets the requirements of section 1515.

''(b) Such foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. Subsequent information

''From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

''(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

''(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

''§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 702. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

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

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

''§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

''(1) in which the debtor has its principal place of business or principal assets in the United States;

''(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

''(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE VII—FINANCIAL CONTRACT PROVISIONS

SEC. 801. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(2) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or

board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 802. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

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

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 803. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 804. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

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

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 805. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 806. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

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

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

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

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the

Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 807. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or equity swap, option, future, or forward agreement;

''(V) a debt index or debt swap, option, future, or forward agreement;

''(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of

securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) any combination of the agreements or transactions referred to in this subparagraph;

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(C) by inserting ''or financial participant'' after ''swap participant''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made

under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 808. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).''.

SEC. 809. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 810. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

''§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 811. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE IX—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 901. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 902. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 903. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 904. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 905. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 906. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 907. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE X—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1001. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric, or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any individual who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1002. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''§ 351. Disposal of patient records

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''351. Disposal of patient records.''.

SEC. 1003. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

''(A) in disposing of patient records in accordance with section 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and''.

SEC. 1004. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

''§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1005. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections

102, 219, and 446, is amended by adding at the end the following:

''(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1006. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).''.

TITLE XI—TECHNICAL AMENDMENTS

SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title the following definitions shall apply:'';

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

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

(4) in each of paragraphs (35A), (38), and (54A), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

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

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

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

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

SEC. 1103. EXTENSION OF TIME.

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

SEC. 1104. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking ''attorney's'' and inserting ''attorneys''''.

SEC. 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

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

SEC. 1107. EFFECT OF CONVERSION.

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

SEC. 1108. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

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

SEC. 1109. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

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

SEC. 1110. EFFECT OF DISCHARGE.

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

SEC. 1111. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

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

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

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

SEC. 1112. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1113. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

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

(2) by adding at the end the following:

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

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1114. POSTPETITION TRANSACTIONS.

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

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

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

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

SEC. 1115. DISPOSITION OF PROPERTY OF THE ESTATE.

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

SEC. 1116. GENERAL PROVISIONS.

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

SEC. 1117. ABANDONMENT OF RAILROAD LINE.

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

SEC. 1118. CONTENTS OF PLAN.

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

SEC. 1119. BANKRUPTCY CASES AND PROCEEDINGS.

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

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

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

SEC. 1120. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

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

(1) in the first undesignated paragraph—

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

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

(2) in the second undesignated paragraph—

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

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

SEC. 1121. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The

parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1122. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGSHIPS.

The following judgeships positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) Two additional bankruptcy judgeships for the southern district of New York.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) One additional bankruptcy judgeship for the district of New Jersey.

(4) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(5) Three additional bankruptcy judgeships for the district of Maryland.

(6) One additional bankruptcy judgeship for the eastern district of North Carolina.

(7) One additional bankruptcy judgeship for the district of South Carolina.

(8) One additional bankruptcy judgeship for the eastern district of Virginia.

(9) Two additional bankruptcy judgeships for the eastern district of Michigan.

(10) Two additional bankruptcy judgeships for the western district of Tennessee.

(11) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(12) Two additional bankruptcy judgeships for the district of Nevada.

(13) One additional bankruptcy judgeship for the district of Utah.

(14) Two additional bankruptcy judgeships for the middle district of Florida.

(15) Two additional bankruptcy judgeships for the southern district of Florida.

(16) Two additional bankruptcy judgeships for the northern district of Georgia.

(17) One additional bankruptcy judgeship for the southern district of Georgia.

SEC. 1123. TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(1) One additional bankruptcy judgeship for the district of Puerto Rico.

(2) One additional bankruptcy judgeship for the northern district of New York.

(3) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(4) One additional bankruptcy judgeship for the district of Maryland.

(5) One additional bankruptcy judgeship for the northern district of Mississippi.

(6) One additional bankruptcy judgeship for the southern district of Mississippi.

(7) One additional bankruptcy judgeship for the southern district of Georgia.

(b) VACANCIES.—

(1) IN GENERAL.—The first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under subsection (a) to such office; and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(2) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in paragraph (1), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(c) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years or more after the date of enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary bankruptcy judgeships referred to in this subsection.

SEC. 1124. TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.

The bankruptcy judgeship presently shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

SEC. 1125. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(b) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

SEC. 1126. TECHNICAL AMENDMENTS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking ''3'' and inserting ''4'';

(2) in the item relating to the district of Delaware, by striking ''1'' and inserting ''6'';

(3) in the item relating to the middle district of Florida, by striking ''8'' and inserting ''10'';

(4) in the item relating to the southern district of Florida, by striking ''5'' and inserting ''7'';

(5) in the item relating to the northern district of Georgia, by striking ''8'' and inserting ''10'';

(6) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3'';

(7) in the item relating to the southern district of Georgia, by striking ''2'' and inserting ''3'';

(8) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1'';

(9) in the item relating to the district of Maryland, by striking ''4'' and inserting ''7'';

(10) in the item relating to the eastern district of Michigan, by striking ''4'' and inserting ''6'';

(11) in the item relating to the district of Nevada, by striking ''3'' and inserting 5'';

(12) in the item relating to the district of New Jersey, by striking ''8'' and inserting ''9'';

(13) in the item relating to the southern district of New York, by striking ''9'' and inserting ''11'';

(14) in the item relating to the eastern district of North Carolina, by striking ''2'' and inserting ''3'';

(15) in the item relating to the eastern district of Pennsylvania, by striking ''5'' and inserting ''6'';

(16) in the item relating to the district of Puerto Rico, by striking ''2 and inserting ''3'';

(17) in the item relating to the district of South Carolina, by striking ''2'' and inserting ''3'';

(18) in the item relating to the western district of Tennessee, by striking ''4'' and inserting ''6'';

(19) in the item relating to the district of Utah, by striking ''3'' and inserting ''4''; and

(20) in the item relating to the eastern district of Virginia, by striking ''5'' and inserting ''6''.

SEC. 1126. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1126. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;''.

SEC. 1127. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1128. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

''(A) not later than 45 days after the date of receipt of such goods by the debtor; or

''(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

''(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1127. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

(d) The prohibition against the granting of a discharge in subsection (a) and the prohibition against the confirmation of a plan of reorganization in subsection (b) shall not apply if the debtor is unable to provide such tax documents due to circumstance beyond the debtor s control including the failure of the taxing authority to provide such documents.

SEC. 1128. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1129. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

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

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1131. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1133. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1134. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1135. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iv) the following statement: 'If your current rate is a temporary introductory rate, your total costs may be higher.'.

''(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.''.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 1637 of this title, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 1635, 1637(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 1610(a)(2) as any of the terms or items referred to in section 1637(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) of this title.''.

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding the following:

''(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

''(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: 'Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.'.

''(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.''.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

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

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market

value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations

for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

SEC. 1310. ISSUANCE OF CREDIT CARDS TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (6) (as added by section 1303 of this title) the following new paragraph:

''(7) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, any consumer who has not attained the age of 21, except in response to a written request or application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer who has not reached the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent or guardian of the consumer indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has reached the age of 21; or

''(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.''.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 20 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this substitute amendment on behalf of the gentleman from Michigan (Mr. CONYERS) to make the bill a truly balanced reform measure by promoting responsibility for both debtors and lenders alike.

Unfortunately, the bill being brought to the floor today is little more than a package of special interest amendments that will distort the bankruptcy system, hurting the most financially desperate families, shut down distressed businesses and do nothing to stop predatory lending or collection practices.

The substitute will make a number of changes to the bill to ensure responsibility, without encouraging abuse of the system by debtors or by creditors.

The substitute replaces the one-size-fits-all means test with a clear standard that takes into account the debtor's real income and real expenses. That is not what the bill does now. The bill before us would calculate a family's ability to repay its debts by looking at income they no longer have and costs of living that some IRS bureaucrat thinks their expenses should be, rather than what their expenses really are.

Since when did the IRS bill collectors become the gold standard for accountability and fairness? This Congress ordered the IRS as part of IRS reform a few years ago to exercise more lenience and flexibility in the use of these collection standards. But in this bill these old standards which we discarded for tax cheats are sacrosanct for debtors.

So what happens if the IRS gets it wrong? What happens if rents in your town or other costs of living do not resemble what the IRS thinks they are? Under this bill you would have to get a lawyer and prove that the IRS is wrong and the cost of living in your town is what it is. You would have to go to court and prove that you will not be receiving the income from the job you lost 6 months ago. If not, you will be presumed to be an abuser of the bankruptcy system.

Who is hardest hit by this? Honest debtors who are in real trouble because they were laid off or for whatever other reason they cannot afford a lawyer. Do you know why? Because people who file for bankruptcy are generally broke.

Our substitute has a sensible test that passed the Senate overwhelmingly in the 105th Congress. This substitute will also provide true protection for children by limiting the ability of creditors to preserve their claims after discharge when, without the bankruptcy court's protection, they will be able to capture funds that should go for support of the debtor's children. Making child support the first priority, as the bill does, will do nothing for children if credit card debt survives bankruptcy to compete with child support obligations. Because the priority does not survive the bankruptcy, Mom has to go to the State court where there are no priorities and compete with the banks' lawyer, which she does not have to do now.

The substitute will also undo changes to Chapter 13 to ensure that debtors who want to enter into a repayment plan will be able to succeed. Changes to Chapter 13, which incorporates the same calculations and IRS standards from the means test, even if you are below the median income, even if you file for Chapter 13 voluntarily, would guarantee that these plans will fail even more often than the 60 percent failure rate that we have now with completely volunteer plans.

The substitute also ensures that unsecured creditors will not be able to use new legal tricks to jump ahead of other creditors.

It also prevents debtors from using bankruptcy court to evade lawful debts

for criminal civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions or individuals on the basis of religion, or using force or the threats of force to deprive women of their right to see a doctor.

That is right; we are still suggesting that people that violate the Freedom of Access to Clinic Entrances Act should not be able to use the bankruptcy courts to discharge their debts or to use the courts to evade payments and force people who already have been awarded a judgment to chase them through the bankruptcy system at great expense. That is the rule of law, and that is what this bill should contain.

We should not subordinate the rights of women, of the members of our Armed Forces, of houses of worship or people suffering discrimination just because some banks want to tilt the system in their favor.

Allowing the bankruptcy courts to become a safe haven for people who violate our civil rights laws is inexcusable, even in the cause of providing special benefits to the special interests, which is the chief purpose of this bill.

The substitute also provides enhanced protection for employee benefits in Chapter 11 and salaries, and remedies for corporate wrongdoing in Chapter 11. It is the original version of the amendment offered by the gentleman from Utah (Mr. CANNON) and the gentleman from Massachusetts (Mr. DELAHUNT). Their compromise is an important start, and I was pleased to support it a few minutes ago. Our substitute finishes the job.

The substitute provides bankruptcy courts with flexibility to protect small businesses from premature or unnecessary liquidation so that they can reorganize and continue in business and not lay off their employees. It also closes a loophole in current law by preventing debtors from taking cases to courts far away from where the business is actually conducted. It also protects the rights of debtors to uphold contracts in bankruptcy.

The substitute provides for additional bankruptcy judges according to the most recent needs assessment by the Judicial Conference. We have a crisis in the bankruptcy courts that will only be made worse by the litigation explosion this bill will cause, yet the sponsors of this bill have refused to update it to reflect current needs for judges. That will only result in delay and increased costs for everyone who has a stake in the bankruptcy system, debtors, creditors, everyone.

It also strikes pro-IRS amendments that would elevate the rights of taxing authorities over that of other creditors and debtors. Many of you have probably not taken the time to read title VII of the bill. You should show it to a tax lawyer at home, to someone you trust, and ask them what it does. Is there any rational reason to give taxing authorities more rights than other creditors in bankruptcy?

Is there any reason to shortchange businesses and individuals to pay off the government? Since when did this House become a bunch of cheerleaders for the tax collectors?

The substitute will prevent bankruptcy by providing real disclosure of the borrower's actual credit card debt and the cost of borrowing. A similar amendment was adopted by the Senate in the 105th Congress. The current bill provides only an 800 number and deceptive ''examples'' of repayment costs, rather than the actual costs of credit to inform the debtor. Is it too much to ask that people should be given the information they need on the costs of interest and fees so they can plan their finances responsibly and avoid bankruptcy? The substitute, unlike the bill, will require that.

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The substitute also protects against corruption of bankruptcy proceedings by deleting amendments that would allow for abusive motions, that would allow for conflicts of interest on the part of investment bankers, that would allow bankruptcy professionals to delay accountability in court for their wrongdoing.

Bankruptcy reform is an important and laudable goal; but it must be balanced and everyone, debtors and creditors alike, must be held accountable. The current bill would encourage abuse of genuinely distressed families and allow credit card companies to continue their abusive practices.

I urge everyone to support the Democratic substitute so that we can have real reform in the bankruptcy system rather than the sham bill before us that simply reaches into the pockets of low- and middle-income people in situations of distress and in 60 or 70 different ways, takes the money out of their pockets and gives it to the big banks and the credit card companies, which is the entire purpose of the bill before us, without the substitute.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Nadler substitute. The Nadler substitute not only makes significant and controversial revisions to H.R. 975, but deletes crucial provisions from the bill, including various provisions intended to provide important consumer protections.

Here are just a few examples of the more than 30 provisions that the Nadler substitute deletes from H.R. 975:

Section 201, which is intended to protect debtors and to promote alternative dispute resolutions with creditors;

section 202, which penalizes creditors who materially violate the discharge injunction;

section 203, which requires heightened disclosures in connection with, and scrutiny of, reaffirmation agreements. This provision, by the way, was added at the insistence of Senator TORRICELLI during the 106th Congress and was fully endorsed by the Clinton administration;

section 311, which attempts to strike a balance between the needs of residential landlords dealing with deadbeat tenants who use bankruptcy to avoid paying rent and giving a financial fresh start to tenants who are willing to cure their rent arrears and to be current on their rental payments. This provision, I should note, was thoroughly negotiated during the 107th Congress by Senator FEINGOLD;

and, all of title VII, which strengthens the ability of State and local taxing authorities to collect taxes. At a time when the States and localities are in such bad shape financially, I do not think we would want to give a bigger pass to bankrupts to avoid paying the taxes that they had accrued and owed.

Worse yet, the Nadler substitute guts the various provisions that were hallmarks of last year's conference report. It replaces H.R. 975's needs-based income expense formula with a completely new, but ill conceived, test that could easily lend itself to manipulation.

The Nadler substitute also essentially eliminates the bill's credit counseling provisions and reduces the reach-back period with respect to the cramdown of claims secured by automobiles, a provision that was extensively negotiated with Senate Democrats during the 107th Congress.

Finally, the Nadler substitute essentially reinstates the so-called Schumer amendment, which will effectively penalize protestors who engage in civil disobedience. This is an extraneous and controversial provision that makes debts arising from the violation of the Freedom of Access to Clinic Entrances Act nondischargeable. Inclusion of this provision will likely kill bankruptcy reform, a fact proven just 4 months ago in the last Congress when a vote on the rule that would have allowed consideration of the bankruptcy conference report which contained a similar provision failed on the floor of the House.

Simply put, a vote for the Nadler substitute is a vote to kill bankruptcy reform legislation, and I urge Members to vote against it.

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

Mr. NADLER. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

I rise in opposition to H.R. 975 because it is a harsh, one-sided bill. As we all know, our country is in the midst of a very difficult economic period. According to the Department of

Labor's figures, the unemployment rate for February 2003 was 5.8 percent. Mr. Chairman, 308,000 people lost jobs in the last month alone.

In addition, we have larger and larger numbers of military personnel being sent overseas in anticipation of a possible war with Iraq. They sacrifice their time and energy and put their lives at risk for the sake of our country. Many also sacrifice their salaries. Often, Reservists who are called up take a substantial cut in pay. Despite efforts to adjust their finances, some families will not be able to cover all of their costs. Those families may need to turn to the bankruptcy system.

Ninety percent of all bankruptcies are triggered by one of the following three events: job loss, unforeseen medical expenses, or divorce. Yet the rules of this Draconian bill in H.R. 975 are so restrictive that people who really need the system are lumped together with people who have possibly abused the system in the past.

Large numbers of groups oppose H.R. 975, including the AFL-CIO and the United Auto Workers. They are concerned that the harsh changes to Chapter 11 bankruptcies will cost jobs by forcing more businesses into liquidation. In addition, these groups are concerned that the bill's consumer bankruptcy provisions will hurt people because it squeezes families so hard in favor of credit card companies.

Opposition also comes from a whole host of groups concerned about women and children, while supporters of this bill argue that it has a series of provisions to assist women and children. If this were the case, then organizations such as the National Organization for Women, the California Women's Law Center, and the Association for Children for Enforcement of Support would all support the bill. In fact, they all oppose the bill.

Mr. Chairman, H.R. 975 does much more harm than it does good for women and children. One of the worst aspects of this bill is the fact that it places women and children in direct competition with more aggressive creditors such as credit card companies.

H.R. 975 is also opposed by groups concerned about minorities, senior citizens, and victims of crimes. The Leadership Conference on Civil Rights, the National Council of Senior Citizens, and the National Center for Victims of Crime are just a few of the organizations that have spoken out against this piece of legislation.

Minorities are often subjected to discrimination in home mortgage lending and in hiring and firing decisions and are more highly targeted by predatory lending. As a result, minorities will more often be forced to consider the bankruptcy system as a means to stabilize their financial circumstances.

The elderly face increased risk of job loss and catastrophic health care costs, again meaning that more of them will have to explore bankruptcy as a possible option.

As for victims of crimes and torts, the National Organization for Victim Assistance has noted, ''More exempted creditors with rights to the same finite amount of resources means lower payments to all. Inevitably, for victim creditors, that means either a smaller return on the restitution owed, or a longer period of repayment, or both.''

Most troubling is the fact that this bill, which makes such severe change to debtors' rights under the bankruptcy system, makes almost no changes whatsoever to creditors' rights and responsibilities.

This bill fails to address the fact that credit card companies solicit people who are not creditworthy in the first place. We should be instituting measures to ensure that the credit card companies do their homework before extending credit. We should require parental consent before students under the age of 21 can obtain credit cards, unless there is evidence to show that the student is financially solvent. In fact, the gentlewoman from California (Ms. WATERS) sought to offer an amendment with a very similar goal, but her amendment was rejected by the Committee on Rules.

It is time for Congress to recognize that this bill is too flawed to serve the American people. We must look carefully at the long-term consequences and at the current economic conditions, and then craft any bankruptcy reform legislation in a way that is fair to consumers and creditors. I urge a ''no'' vote on this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER), the distinguished member of the Committee on the Judiciary.

As I emphasized in my statement earlier today during the general debate on this legislation, the Congress has extensively debated and carefully considered bankruptcy reform legislation over the past 6 years. H.R. 975 represents a consensus, which has sustained overwhelming majorities in both bodies.

The substitute has not been subjected to the same kind of careful consideration from the House that characterizes H.R. 975. It injects an uncertainty into the means test which undercuts the major purpose of the bill, which is to promote uniformity and predictability in the bankruptcy process. Rather than strengthening the integrity of the bankruptcy system and restoring personal responsibility, the substitute endangers these goals. In addition, the substitute contains provisions relating to abortion which are extraneous to bankruptcy, which the House has rejected, and which compromise the objectives of true bankruptcy reform.

Mr. Chairman, we have come too far to turn back now. I appreciate the gentleman's engagement on this issue. However, the substitute truly does take us back. Rather than seizing a historic opportunity to confront a growing problem and restore confidence in a failing system, the substitute merely rearranges the flaws that have drawn us to this point.

Mr. Chairman, I urge a ''no'' vote on the substitute.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is true, as the distinguished gentleman said a moment ago, that this bill has been before us for a long time. It is not true that it has gotten a consensus. Well, actually it is true that it has gotten a consensus: a consensus of opposition from just about every professional group, every consumer group, every labor group, every women's group, every minority group, every children's welfare group, every professional bankruptcy group, every trustees' group, every Chapter 13 trustees' group, all the judicial groups. They all oppose the bill.

Now, it is true that it has gotten a majority of this House in the past. That is unfortunate. Hopefully we will reconsider that.

For example, the Committee on the Judiciary has received testimony from many sources, most recently from the Commercial Law League of America, the Nation's oldest creditors' rights organization, to the effect that the business provisions in this bill will destroy businesses, especially small businesses. The substitute would correct this problem by giving distressed companies the needed flexibility to reorganize successfully.

Organized labor has also spoken out against the business provisions of this bill because they recognize that a failed reorganization hits workers the hardest. They are the ones who lose their jobs, they are the ones who lose their benefits, they are the ones who see their pensions evaporate.

If you had a large or small business bankruptcy in your district, you know what happens when a company goes under. Preserving value in a company through successful rehabilitation where it is possible benefits everyone: the employees, the creditors, the communities.

This bill, however, imposes rigid and inflexible deadlines on small businesses, especially those dealing with the time in which a company may propose a plan of reorganization. It also places absolute limits on the time in which a business must decide whether to assume or reject a commercial lease, even if they are current in their rent payments. So you cannot wait for the Christmas season to see how you are doing and whether you can survive or not or whether you should throw in the towel. That limit could prove disastrous in cases involving businesses with hundreds of stores. Does anyone know about the K-Mart bankruptcy or the cinema multiplex bankruptcies? How would arbitrary deadlines have affected those cases?

Other arbitrary rules that would force a conversion of a case from reorganization to liquidation are dangerous to our economy and to American small business.

When this bill first appeared in 1997, everyone was singing ''Happy Days Are Here Again.'' There were few fears that massive bankruptcies in our airline industry, the collapse of much of our high-tech industry, the implosion of such market bellweathers as Enron and WorldCom were just over the horizon.

It would be foolhardy for the Members of this House to ignore what is going on in the real world just because this House has adopted this bill in the past. In the case of these business provisions, it could mean the loss of thousands of jobs, the unnecessary liquidation of valuable and still-potentially viable businesses, and the loss of business and value for trade creditors and communities.

Let us take an example from the financial pages. Recently, The New York Times reported that United Airlines was seeking extension on its April 8 deadline for filing a plan of reorganization. They are seeking extension until October 6.

Why are they seeking this extension? According to the report, ''The extra time would give United the chance to gauge the consequences of any war with Iraq on the airline industry.''

Is there anyone here, other than one of United's competitors, who does not think that that makes sense? Do we want to insist that United file a claim without getting a handle on what is about to happen? Would the Members of this House prefer to just liquidate the whole thing?

According to The Times again, ''The Air Transport Association said in a report that a long conflict could prompt the industry to cut 70,000 more jobs on top of the 100,000 lost since the September 11 attacks in 2001. It said several carriers could be forced into bankruptcy along with United and US Airways which have filed for Chapter XI protection last summer.''

In fact, an ATA spokesperson was quoted in the London Financial Times just this morning as stating that the war could add another $4 billion to airline losses on top of the $5.7 billion forecast and cut a further 2,200 flights daily. The same spokesperson warned that further deterioration in the industry could make the prospect of ''forced nationalization of the industry not unrealistic.''

□ 1545

In court papers, United requested an extension of time until October ''to avoid premature formulation of a Chapter 11 plan, and to ensure that the formulated plan takes into account the interests of the company, its employees, and its creditors.''

Should not the law allow courts to review the facts and decide whether or not such flexibility is, as the Bankruptcy Code has long required, ''in the best interests of the creditors and the estate''?

This problem is not confined to United. This morning the Financial Times reported that Standard and Poors has placed 11 other airlines on the credit watch. As a result of the 1991 Gulf War, three major airlines were forced into bankruptcy. Our job is to make the system work better, not to wreck it.

Chapter 11 is a model that other countries, most recently Estonia, are trying to emulate. They look to our system of rehabilitating going concern value where possible as preferable to the emphasis on liquidation and other systems.

Just as the rest of the world is realizing that our system encourages risk-taking, entrepreneurship, and promotes the rehabilitation of distressed businesses, this bill takes our system back in the other direction to force liquidation instead of permitting the flexibility that encourages reorganization and the survival of these businesses.

The substitute that I am offering solves that problem and keeps the current system for these businesses. Perhaps this House could pause long enough to listen to the sound of the market forces before acting to force thousands more companies into liquidation and destroy tens of thousands of jobs. Keep the flexibility in the current system by passing this substitute.

Mr. Chairman, in summary, the alleged reason for this bill, that lots of debtors are taking advantage of the credit card companies and are costing an average consumer $400 a year in higher interest, is sheer nonsense. The reason there are more bankruptcies, studies have shown, is because there is so much credit and too easy credit being given to people who are already head over heels in debt, and people are having too much debt in relation to their income.

If we want to cut down the number of bankruptcies, we should do something about irresponsible extension of credit to people already head over heels in debt. The bill does not do that.

The evidence is that people are more reluctant now to file bankruptcy than they were years ago. The bill ignores that. The bill would force many people into Chapter 13 when they are better served in Chapter 7.

Recently, Professor Staten, whose work for the credit industry provided much of the empirical fodder for this legislation, observed that this legislation would move only about 5 percent of Chapter 7 cases into Chapter 13, and that the legislation would have no effect on the number of bankruptcies. Similarly, according to James Blaine, CEO of the North Carolina State Credit Union, ''Charge-offs are well under control at 46/100 of a percent of total loans,'' less than a half of 1 percent. In other words, 99.5 percent of credit union loans are repaid as promised, and 41.1 percent of charge-offs are related to bankruptcy. Or said another way, just .19 percent, less than 2/10ths of 1 percent, of total credit union loans result in a bankruptcy loss. So taking the high estimate of a 15 percent rate of abuse, the calculation reveals that total losses on loan portfolios are less than 3/100ths of 1 percent.

That should not lead to a draconian bill such as this, a bill that, in addition, cracks down on small businesses and will force many of them into liquidation as opposed to being reorganized.

The substitute keeps some flexibility in the system, enables human judgment to see, on the part of bankruptcy judges, to determine when there is an abuse of the system and a bankruptcy filing must be disallowed and when it should go forward.

Perhaps the worst thing about this bill is the adoption of the IRS rigid guidelines, the adoption of the rigid guidelines that allow no room for any discretion. That is not the way we should write legislation.

Finally, let me simply say that notwithstanding the claims by the consumer credit industry to the contrary, consumer lending is the most profitable enterprise. According to Bloomberg News, CitiGroup, Inc., said ''Fourth quarter profit fell 37 percent because of higher loan costs, and the costs of settling claims at the world's biggest financial services company misled customers with biased stock research.'' But the biggest profit center was the credit cards.

Finally, anyone who thinks that credit card companies, by being able to take more money, to squeeze more money from middle- and low-income people who, because of a job loss or a medical emergency, are in extreme situation and bankruptcy, anyone who thinks they are going to lower the interest rates and save consumers $400 ignores the history of the last 20 years, and ought to purchase the Brooklyn Bridge from people who do not own it.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I appreciate the summary of the summary from the gentleman from New York (Mr. NADLER). I do not think anybody who supports this bill is in the mood to buy the Brooklyn Bridge. The city of New York has that as a tremendous asset and ought to keep it that way.

Seriously, if we look at the list of groups that support this legislation, practically every State retailer federation is in support of changing the bankruptcy laws. These are not banks, these are not credit card companies, these are the people who represent the mom-and-pop stores on the Main Streets in the cities and towns and villages of the United States of America. They are the ones that have to absorb a lot of the debt that is written off in bankruptcy. That means fewer jobs, it

means higher prices, and it means a burden on the people who pay their bills as they have agreed to pay their bills.

What this bill does very simply is that for someone who is genuinely down and out and has no chance whatsoever of repaying their debt, it does not change the law at all. They are allowed to go through a Chapter 7 liquidation, get a discharge, and start out afresh. They do get some credit counseling that they do not have under the existing law, and this is counseling that would advise them of the consequences of bankruptcy, as well as advice on how to avoid getting into this pickle again. That credit counseling would go down if the bill goes down.

However, where there is a change in the law for personal bankruptcies are for the people who have the potential of repaying at least some of their debt during the next 5 years. I do not see anything wrong with that. If they can repay some of their debt during the next 5 years, that is their obligation. Why should they pass that debt on to people who pay 100 percent of their bills all the time?

So this is what the issue is. The substitute should be defeated, the bill should pass, and we should provide the essential reforms that have been negotiated out for the last 6 years on this issue.

I urge defeat of the substitute amendment.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the Democratic substitute. This amendment retains the vast majority of the provisions in the underlying bill, while responding to the most egregious and one-sided provisions in the legislation. There are a number of significant differences between our substitute and the underlying bill:

1. Means Test: First and foremost, we fix the rigid one-size-fits-all means test used to determine an individual's eligibility for bankruptcy proceedings. Rather than relying on the debtor's actual cost of living, the bill relies upon IRS collection standards which lay out no specific standards for the deduction of living expenses.

By contrast, the Democratic substitute would modify the means test and require the court to take into account the debtor's actual income and expenses and income. This is based on the same language that passed the Senate overwhelmingly in the 105th Congress.

2. Alimony and Child Support: As the bill presently stands, it is a disaster for single mothers and their children and it will have a particularly harsh impact on the payment of alimony and child support. The basic problem arises from the fact that bankruptcy and insolvency are by definition a zero-sum game. By design, the bill will increase the amount of funds being paid to unsecured creditors, and it therefore should come as no surprise that such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 bankruptcy cases per year involve child support and alimony orders.

The Democratic substitute mitigates this problem by eliminating provisions in the bill concerning luxury good purchases, cash advances, and credit card debt used to pay taxes which place credit card companies on equal footing with alimony and child support payments.

3. Small Business: The Republican bill also imposes a whole host of arbitrary deadlines in small business cases designed to speed up the bankruptcy process. The effect of these changes would be to make it much harder for small businesses to reorganize and stay afloat. That is the last thing our economy needs.

These provisions have drawn the strong opposition of organized labor. For example, the AFL–CIO has earned that the small business provisions will ''threaten jobs by placing substantial procedural and substantive barriers in the way of small businesses' access to the protections of Chapter 11 . . . threaten[ing] their overall ability to successfully reorganize.''

The substitute allows for the extension of the arbitrary deadlines where it can be shown that the reason for the delay is due to circumstances beyond the control of the small business. Thus, if the reason a deadline cannot be met is because a regulatory process—such as a hearing on an environmental claim—must take place before a plan can be developed, we would give the court discretion to waive the deadline.

4. Credit Card Abuse:

Perhaps the bill's most glaring omission is its failure to address the problem of abusive lending practices. At the same time the legislation responds to every conceivable debtor excess—whether real or imagined—it gives a pass to the transgressions of the credit industry. This despite the fact that we now have 3.5 billion credit card solicitations per year and $1.3 trillion in consumer debt now outstanding.

Our substitute cracks down on the very worst of these abuses, such as soliciting minors who have little ability to pay their debts and failing to disclose clearly on their account statements the total amount and total time it would take to pay off balances if only the minimum amount due was paid each month.

5. Protecting Employee Wages and Benefits in Bankruptcy: The Democratic substitute makes several significant changes to protect employee wages and other benefits in bankruptcy. First, it increases the dollar amount of employee wages and other benefits to $13,500 from $4,650 to take full account of inflation over the last 30 years. Second, it increases the period of time a court may avoid fraudulent transfers to corporate insiders from 1 to 4 years. Given the complexity of these transfers, this is needed to help us protect against future Enron situations.

The Democratic substitute also requires that before business assets are sold in bankruptcy, we learn about the potential adverse impact on employees and retirees health care and pension benefits. All too often corporate bankruptcies become an excuse to void promises of pension and health care benefits, and the Democratic substitute responds to that problem.

6. Use of Bankruptcy to Evade Lawful Debts for Civil Rights Violations: Finally, the Democratic substitute prevents debtors from using the bankruptcy court to evade lawful debts for civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions, or individuals on the basis of religion, or using force or threats to deprive a woman of a right to see a doctor.

Of particular note is the fact that this year's bill drops a provision from the conference report dealing with a very serious problem facing woman as a result of the Bankruptcy Code—the fear that violent and reckless individuals will be able to terrorize and blockade abortion clinics and eliminate their liability from that violence through the bankruptcy process. The Democratic substitute closes that loophole.

For those of the Members who want to support real and balanced bankruptcy reform—without unnecessarily piling on the middle class, single mothers and their children, harming employees, and without giving the credit card industry a complete pass—I urge a ''yes'' vote on the Democratic substitute.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 4 offered by the gentleman from California (Mr. SHERMAN); and amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 269, answered ''present'' 1, not voting 9, as follows:

[Roll No. 71]

AYES—155

Abercrombie	Baldwin	Bereuter
Allen	Ballance	Berkley
Baca	Becerra	Berman
Baird	Bell	Bishop (GA)

Blumenauer
Bono
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lynch
Majette
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Solis
Spratt
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOES—269

Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—9

Buyer
Carson (IN)
Dunn
Gephardt
Hyde
Ros-Lehtinen
Shuster
Stark
Udall (CO)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). The Chair will remind Members that there are 2 minutes remaining in this vote.

□ 1617

Messrs. BARTLETT of Maryland, BARRETT of South Carolina, SHAYS, INSLEE, PICKERING, BONILLA, ENGLISH, FRANKS of Arizona, NEY, PORTMAN, DAVIS of Tennessee, HALL, CRAMER and BISHOP of New York and Mrs. JO ANN DAVIS of Virginia, Mr. LUCAS of Kentucky, Mr. DEUTSCH, Ms. SLAUGHTER, Mr. GARRETT of New Jersey, and Mr. TOWNS changed their vote from ''aye'' to ''no.''

Mrs. MCCARTHY of Missouri, Ms. CORRINE BROWN of Florida, Mrs. BONO and Mr. GUTIERREZ changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON). Pursuant to clause 6 of rule XVIII, the remaining question will be conducted as a 5-minute vote.

AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 128, noes 296, answered ''present'' 1, not voting 9, as follows:

[Roll No. 72]

AYES—128

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Clay
Clyburn
Conyers
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kleczka
Kucinich
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Portman
Price (NC)
Rahall
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Strickland
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—296

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)

DeLay	Kelly	Putnam
DeMint	Kennedy (MN)	Quinn
Diaz-Balart, L.	Kildee	Radanovich
Diaz-Balart, M.	Kind	Ramstad
Dicks	King (IA)	Regula
Dooley (CA)	King (NY)	Rehberg
Doolittle	Kingston	Renzi
Doyle	Kirk	Reyes
Dreier	Kline	Reynolds
Duncan	Knollenberg	Rogers (AL)
Ehlers	Kolbe	Rogers (KY)
Emerson	LaHood	Rogers (MI)
English	Lampson	Rohrabacher
Everett	Langevin	Ross
Feeney	Larsen (WA)	Rothman
Ferguson	Larson (CT)	Royce
Flake	Latham	Ryan (WI)
Fletcher	LaTourette	Ryun (KS)
Foley	Leach	Saxton
Forbes	Lewis (CA)	Schrock
Ford	Lewis (KY)	Scott (GA)
Fossella	Linder	Sensenbrenner
Franks (AZ)	Lipinski	Sessions
Frelinghuysen	LoBiondo	Shadegg
Frost	Lucas (KY)	Shaw
Gallegly	Lucas (OK)	Shays
Garrett (NJ)	Lynch	Sherwood
Gerlach	Manzullo	Shimkus
Gibbons	Matheson	Shuster
Gilchrest	McCarthy (NY)	Simmons
Gillmor	McCotter	Simpson
Gingrey	McCrery	Skelton
Gonzalez	McHugh	Smith (MI)
Goode	McInnis	Smith (NJ)
Goodlatte	McIntyre	Smith (TX)
Gordon	McKeon	Smith (WA)
Goss	Meeks (NY)	Snyder
Granger	Menendez	Souder
Graves	Mica	Spratt
Green (WI)	Miller (FL)	Stearns
Greenwood	Miller (MI)	Stenholm
Gutknecht	Miller, Gary	Stupak
Hall	Mollohan	Sullivan
Harris	Moore	Sweeney
Hart	Moran (KS)	Tancredo
Hastings (WA)	Moran (VA)	Tanner
Hayes	Murphy	Tauscher
Hayworth	Murtha	Tauzin
Hefley	Musgrave	Taylor (MS)
Hensarling	Myrick	Taylor (NC)
Herger	Nethercutt	Terry
Hill	Ney	Thomas
Hinojosa	Northup	Thompson (CA)
Hobson	Norwood	Thornberry
Hoekstra	Nunes	Tiahrt
Holden	Nussle	Tiberi
Hooley (OR)	Oberstar	Toomey
Hostettler	Ortiz	Turner (OH)
Houghton	Osborne	Turner (TX)
Hoyer	Ose	Upton
Hulshof	Otter	Vitter
Hunter	Oxley	Walden (OR)
Isakson	Paul	Walsh
Israel	Pearce	Wamp
Issa	Pence	Weldon (FL)
Istook	Peterson (MN)	Weldon (PA)
Janklow	Peterson (PA)	Weller
Jenkins	Petri	Whitfield
John	Pickering	Wicker
Johnson (CT)	Pitts	Wilson (NM)
Johnson (IL)	Platts	Wilson (SC)
Johnson, Sam	Pombo	Wolf
Jones (NC)	Pomeroy	Wynn
Kanjorski	Porter	Young (AK)
Keller	Pryce (OH)	Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—9

Buyer	Gephardt	Ros-Lehtinen
Carson (IN)	Hyde	Stark
Dunn	Kaptur	Udall (CO)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote, 2 minutes remain in this vote.

□ 1625

Mr. WELLER changed his vote from ''aye'' to ''no.''

Mr. INSLEE changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. There being no further amendment in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 147, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. JACKSON-LEE of Texas moves to recommit the bill H.R. 975 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Insert after section 220 the following:

SEC. 220A. PROTECTING ALIMONY AND CHILD SUPPORT PAYMENTS FROM COMPETITION WITH NEW CREDITOR ENTITLEMENTS.

The amendments made by section 306(b) (limiting cramdowns), by section 310 (presumption of non-discharge status for luxury goods and cash advances), and by section 314 (non-discharge status for credit cards used to pay taxes) of this Act may be waived by the court in any case in which the court determines the amendment involved would impair the ability of the debtor to pay any domestic support obligations (as defined in section 101 of title 11 of the United States Code).

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

□ 1630

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes in support of her motion to recommit.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is an amendment, whether or not Members are for or against the bill in its present form, I hope Members will consider very closely and very seriously. Interestingly enough, with the economy in the backdrop of the passing of this legislation, more and more citizens being laid off, and more and more individual parents seeking both alimony and child support, this legislation today does not fix the problem.

My amendment provides that a creditor should not receive any greater protections under the bill, with regard to cramdown on car loans, luxury goods purchases, cash advances or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. There are 180,000 individuals who are owing either child support or alimony as we speak, and the number grows, whether it be male or female.

The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to ensure that alimony and child care are protected. Surely this is something that this body could agree on in fairness and equity, and it makes good sense.

What is the rush to judgment to pass this bankruptcy bill in light of the fact that 300,000 people are laid off, a huge growing deficit, and the people of America crying out for some relief, that provides them with opportunities for jobs and survival? This bill needs to be fixed, and it needs to help those who are supporting children on their own, who have experienced a divorce, catastrophic illnesses, whatever causes them to be in need of these monies that they are not able to fight for.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other less aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men and women owing child or spousal support file for bankruptcy each year.

The other side of the aisle will say this is not a problem because they have made child support and alimony the first priority. But the problem still exists. The debtor emerges from bankruptcy. He will be burdened by the

massive credit card debts and unsecured car loans, and they cannot be discharged under this bill. Guess who will be left in the dump, and that is those needing alimony and child support with no resources.

Mr. Speaker, I cannot imagine that we would not support repairing this bill. I ask my colleagues to support the motion to recommit.

Mr. Speaker, I offer this amendment to address the bill's adverse impact on the payment of domestic support obligations.

My amendment provides that a creditor should not receive any greater protections under the bill with regard to cramdowns on car loans, luxury good purchases, cash advances, or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to make sure that alimony and child care are protected. Surely this is something that we can all agree is fair and makes good sense.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men owing child or spousal support file for bankruptcy each year.

Now, my colleagues on the other side of the aisle will no doubt claim this is not a problem, because they have made child support and alimony the first priority in bankruptcy. But the problem is that after the debtor emerges from bankruptcy, he will still be burdened by massive credit card debts and unsecured car loans—they can't be discharged any more under the bill. And who do you think the debtor will pay—his credit card company, with high paid lawyers filing all sorts of motions or threats, or his ex-spouse?

Mr. Speaker, I yield to the gentlewoman from New York (Ms. SLAUGHTER) who has historical knowledge about the devastation of leaving language out of the legislation that is in the motion to recommit.

Ms. SLAUGHTER. Mr. Speaker, I would like to give a little history, if I may. I have worked through three legislatures trying to do something about children under the poverty line, the vast majority of them there because alimony was not paid. Indeed, we had a whole phraseology, the deadbeat dad, concerning ourselves with children who had no recourse. We tried a lot of remedies on the county and State levels, and some worked pretty well. But the best thing we did was 9 years ago, we went to the Committee on the Judiciary under Jack Brooks and asked him to make certain that child support took precedence over other debts, including credit cards.

Mr. Speaker, it has made a massive difference in the economic status of children who are the sorrowful price of divorce. For 9 years it has worked well, and I want to say that 9 years ago it was bipartisan, and I think there was not a voice spoken against this raised in the House of Representatives. But suddenly now 9 years later, we decide that credit card companies are more important than our children and where they are going to be able to eat and wear clothes and have a roof over their head.

Mr. Speaker, this matters to a lot of us. Children are going to suffer if credit cards takes precedence over all other debts. I doubt there was a deadbeat dad. I used to think there was someone struggling out there who had to pay his credit card first before he could help out his children. For heaven's sake, let us not go back to that. It has worked for 9 years. It will not hurt the bill. Do not give credit cards the last word in the United States as to who gets to eat. It is outrageous when it comes to children and people who are totally dependent that may have to be sitting about waiting until after the credit card companies, which make enormous amounts of money with their large interest, get taken care of.

Ms. JACKSON-LEE of Texas. Mr. Speaker, do not leave women and children out in the cold. That is why many women's groups oppose this legislation, such as the National Women's Law Center and the Family Law Section of the American Bar Association. We can reform the bankruptcy laws without leaving spouses and children out in the cold. That is what my amendment does. I ask my colleagues to vote ''yes'' on the motion to recommit, joined by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from New York (Ms. SLAUGHTER), and the gentlewoman from California (Ms. LOFGREN).

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this motion is offered by people who have historically been in opposition to bankruptcy reform. What this bill does is it increases the priority for unpaid child support from seventh priority to first priority, and if the other side of the aisle gets their way and this bill goes down, unpaid child support stays at seventh priority, and that ought to be one reason and one reason alone to vote down this motion to recommit.

The National Child Support Enforcement Association says that these reforms are crucial to the collection of child support during bankruptcy. The motion to recommit creates a major loophole with respect to antifraud provisions. Section 310, which this motion modifies, deals with debtors who are on the eve of filing for bankruptcy who acquire luxury goods and cash advances.

Under this proposal, a debtor could avoid section 310 by asserting that it would impair the debtor's ability to pay a domestic support obligation. The President of the National Child Support Enforcement Association, in dealing with an identical provision in last year's bankruptcy bill, said, ''H.R. 333 would provide these children with first priority in the collection of support debt, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings in the payment of child support, and ensure that during the course of a consumer bankruptcy, all support owed to the family would be paid and would be paid timely, and would allow State court actions involving custody and visitation, dissolution of marriage and domestic violence to proceed without interference from bankruptcy court litigation.''

Vote ''no'' on this motion to recommit. A ''no'' vote is for the protection of children. A ''no'' vote is for better enforcement of support obligations, and vote ''yes'' on the bill which increases the priority for unpaid support in bankruptcy to go from seventh priority to first priority.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum period of time within which a vote by electronic device will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 150, noes 276, answered ''present'' 1, not voting 7, as follows:

[Roll No. 73]

AYES—150

Abercrombie	Emanuel	Kleczka
Ackerman	Engel	Kucinich
Allen	Eshoo	Lampson
Andrews	Etheridge	Langevin
Baca	Evans	Lantos
Baldwin	Farr	Larson (CT)
Ballance	Fattah	Lee
Becerra	Filner	Levin
Berkley	Frank (MA)	Lewis (GA)
Berman	Gephardt	Lofgren
Bishop (GA)	Gonzalez	Lowey
Bishop (NY)	Gordon	Lynch
Blumenauer	Green (TX)	Majette
Brady (PA)	Grijalva	Maloney
Brown (OH)	Gutierrez	Markey
Capps	Harman	Marshall
Capuano	Hastings (FL)	Matsui
Cardin	Hill	McCarthy (MO)
Clay	Hinchey	McCollum
Clyburn	Hoeffel	McDermott
Conyers	Holden	McGovern
Cooper	Holt	McNulty
Costello	Honda	Meehan
Davis (CA)	Hooley (OR)	Meek (FL)
Davis (IL)	Hoyer	Meeks (NY)
DeFazio	Inslee	Michaud
DeGette	Jackson (IL)	Millender-McDonald
Delahunt	Jackson-Lee (TX)	Miller (NC)
DeLauro	Jefferson	Miller, George
Deutsch	Johnson, E. B.	Moran (VA)
Dicks	Jones (OH)	Nadler
Dingell	Kennedy (RI)	Napolitano
Doggett	Kildee	Neal (MA)
Doyle	Kilpatrick	Oberstar
Edwards		

Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—7

Buyer
Carson (IN)
Hyde
Kaptur
Ros-Lehtinen
Royce
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair would advise all Members that there are 2 minutes remaining in this vote.

□ 1657

Mr. FORD changed his vote from ''aye'' to ''no.''

Mr. MORAN of Virginia and Mr. COSTELLO changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 315, nays 113, answered ''present'' 1, not voting 5, as follows:

[Roll No. 74]

YEAS—315

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—113

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Clay
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holden
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Miller (NC)
Miller, George
Nadler
Napolitano

Neal (MA)	Sanchez, Linda T.	Tierney
Oberstar	Sanchez, Loretta	Udall (NM)
Obey	Sanders	Van Hollen
Olver	Schakowsky	Velazquez
Owens	Schiff	Visclosky
Payne	Scott (VA)	Waters
Pelosi	Serrano	Watson
Rangel	Sherman	Watt
Rodriguez	Slaughter	Waxman
Roybal-Allard	Solis	Weiner
Ryan (OH)	Stark	Wexler
Sabo	Stupak	Woolsey

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—5

Buyer	Hyde	Udall (CO)
Carson (IN)	Ros-Lehtinen	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair reminds Members that there are less than 2 minutes remaining in this vote.

□ 1705

Mrs. JONES of Ohio changed her vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. HOSTETTLER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 975, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Williams, one of his secretaries.

PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, due to a personal family commitment on Thursday, March 13, I was not present for rollcall votes 63 and 64. Had I been present, I would have voted ''yes'' on rollcall number 63 and ''no'' on rollcall number 64.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR TOTAL INDEPENDENCE OF ANGOLA (UNITA)—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

FEDERAL OCEAN AND COASTAL ACTIVITIES REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources, the Committee on Science, and the Committee on Transportation and Infrastructure:

To the Congress of the United States:

In accordance with section 5 of the Oceans Act of 2000 (33 U.S.C. 857–19), I transmit herewith the first biennial Federal Ocean and Coastal Activities Report as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

NATIONAL AMBER ALERT LEGISLATION

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. FROST. Mr. Speaker, I would like to read to the House an open letter directed to the House of Representatives signed by Elizabeth Smart, Lois Smart and Ed Smart.

Today, Elizabeth was introduced to the Amber Alert when she asked about a videotape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saved so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help pass it. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand-alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then go to work with you on lobbying the Senate to pass other pending issues for our children.

I will submit the remainder of the letter for the RECORD, signed by Elizabeth Smart, Ed Smart and Lois Smart.

MARCH 18, 2003.

House of Representatives,
Washington, DC 20515.

AN OPEN LETTER TO THE HOUSE OF REPRESENTATIVES: Thank you very much for your continued support and warm wishes over the past nine months. We especially appreciate all of the representatives who are working together so diligently to pass the National Amber Alert Legislation.

Today, Elizabeth was introduced to the Amber Alert when she asked about a video tape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saves so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help it pass. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then will go to work with you on lobbying the Senate to pass other pending issues for our children.

I wish to apologize to anyone who was offended by my excitement last week. You cannot comprehend the joy and adulation of having your child return. The Amber Alert will make this a reality for countless families. Please don't underestimate the immediacy and power of this legislation!

This is your opportunity to show your leadership for our children. We look forward to seeing you soon.

Sincerely,

EDWARD SMART.
LOIS SMART.
ELIZABETH SMART.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VACCINE INJURY COMPENSATION FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker and my colleagues, these are the faces of children who have been vaccinated with childhood vaccines that contain a

substance called thimerosal. Thousands and thousands and thousands, probably millions of children, but thousands of children have been adversely affected by the thimerosal, which is 50 percent mercury; and these are the faces of children who were normal one day, and after receiving several shots in one day that contained mercury, they very rapidly deteriorated to where they could not talk, they could not look one in the eye, they would flap their arms and run around screaming, and they had chronic constipation and diarrhea alternatively.

These parents of these children and thousands more like them have had a similar experience to my daughter and my grandson. He received nine shots in one day, seven of which contained mercury. He got 40 times the amount of mercury that is tolerable in an adult in 1 day, and within 2 days he was autistic. A very normal child like these were normal children. He was a very happy child, a very talkative child, and he went into silence. When we started getting him out of it finally, he could not talk clearly. He had to have all kinds of speech therapy. He ran around on his toes, flapping his arms, banging his head against the wall like all of these children did. And scientists that we have had before our committee and doctors from throughout the world who are very competent have said that in large part that was caused because by the mercury that was injected into these children from the preservative called thimerasol which was in almost all of the children's vaccinations until just the last 2 or 3 years when we had hearings on this, and, thankfully, most of those vaccines no longer have mercury in them except maybe one which is the flu vaccine for children.

So, Mr. Speaker, if any parents would be watching this, I would like for them to remember to very quickly and very thoroughly look at the insert in the vaccination case when their children are vaccinated and make sure that they do not have an adverse reaction.

The reason I am bringing this up and I am coming down here every night is because there is an attempt by the pharmaceutical companies through Members of Congress to eliminate any possibility of lawsuits against them caused by these vaccinations which had mercury in them.

We have what is called the Vaccine Injury Compensation Fund, which was supposed to be a nonadversarial procedure to compensate these people for damage to their children caused by vaccines; but it has become very adversarial, and it was only a 3-year period within which people had to file. That 3-year period passed before many of these people knew that they could try to get compensation for their child's damage; and as a result, they were left out in the cold. So they filed a class action lawsuit, and there has been an attempt last fall and again this year they are going to attempt to stop those class action lawsuits which would leave these parents out in the cold with no recourse. They are mortgaging their homes. They are going bankrupt. They have no place to go. There is a fund set up to help them, but they cannot get into the fund because that statute has run out and they cannot even go to court to file a class action lawsuit if this language that is in the Senate bill right now is passed into law; and that simply is wrong. We created that fund so those people, those children, could be compensated.

I want to read a letter of a former colleague of ours, Dick Chrysler, who was a Member of this Chamber who has a grandson who is 6 years old that is autistic. He received several vaccinations in the 1997–1999 period, many of which contained the mercury, and here is what his mother said: ''He then continued to regress from being alert and happy and beginning to talk to total regression and not talking until after age 3 with speech therapy. He also became a very aggressive child who did not know how to play or interact properly with others.'' That is what happened to my grandson as well.

''These and many other much more severe behaviors such as seizures with severe breakdowns and explosive behaviors which have caused injury to our other children from broken bones to stitches have become a part of our life due to autism. This has made our life incredibly difficult as one can imagine. As we have taken this past year and a half focusing on whatever treatments we can do to help our son's autism improve and therefore our family's life as well, it has cost us more than we could ever have imagined. Treatments, which have helped but are not covered by any insurance, have amounted to thousands of dollars, and this expense has no end in sight.''

□ 1715

Remember, there is a fund out there that they cannot get into. They cannot go to court, and yet the vaccines, they believe, and thousands like them believe, and I believe, and scientists and doctors believe it was caused by the mercury in these vaccines.

Autism does not just affect the poor thousands of children inflicted with this dreadful disease. It affects every person in the world, since ultimately this epidemic is like a chain reaction.

They go on to say 10 to 20 years from now when these are not just little children, who is going to take care of them, especially when we die? This is something that my colleagues and I have to deal with, and we have to deal with it quickly.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXPRESSING STRONG OPPOSITION TO THE HOUSE REPUBLICAN BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HONDA) is recognized for 5 minutes.

Mr. HONDA. Mr. Speaker, I rise today to express my strong opposition to the House Republican budget resolution. I believe our national budget should be a statement of our country's values. It should reflect the priorities of the American people for good jobs and safe communities, quality education and access to health care.

Unfortunately, the Republican budget fails to fund these national priorities. The Republican budget has only one clear priority: To fund the President's $1.6 trillion tax cut, and the Republicans fund this tax cut at the expense of the social and economic interests of the American people.

The Republican budget provides $1.6 trillion for the President's tax cut, but only provides $28 billion for a prescription drug plan. This will only cover 1.5 percent of our country's seniors' prescription drug costs over the next 10 years. Any additional funds spent to provide a prescription drug plan would have to come at the expense of other Medicare benefits. So Republicans are essentially offering our seniors the following choice: Prescription drug coverage or benefits. Pick one or the other, but you cannot have both.

The Republican budget cuts $9.7 billion from the mandatory education programs. These include student loan programs and child nutrition programs. In 2004 alone, these cuts could push nearly ½ million poor children out of child nutrition programs. Republicans are eager to fund the President's $1.6 trillion tax cut, but cannot seem to find the funds necessary to provide a school breakfast or lunch for our Nation's low-income children. For many of these children, access to school meals may be the only one assured source of good nutrition each day.

Mr. Speaker, there are millions of Americans today whose parents cannot afford prescription drugs, whose children attend classes in bungalows, because their schools are run down and old. There are millions of Americans who are struggling to find work and provide for their families in the midst of our struggling economy. Yet Republicans are offering us a budget this week that cuts funding for every single domestic priority in order to fund a $1.6 trillion tax cut that will only help a small percentage of Americans. These tax cuts are even more inappropriate when you consider the fact that our country is about to embark on a war that will strain our already weakened financial resources.

Our national budget should be a reflection of our priorities and values. It should be a budget based on making the right choices. Do we make room for

more expensive tax cuts, or provide affordable prescription drugs for our Nation's seniors? Do we fund a $1.6 trillion tax cut, or provide school lunches for our Nation's children? Do we focus on modernizing our Nation's schools and providing assistance for unemployed workers, or do we provide tax breaks for the few?

Mr. Speaker, it is clear that the Republicans have chosen the interests of the elite few over the needs of the many. It is clear where their priorities lie.

I urge my colleagues to align their priorities with those of the American people and vote against the Republican budget resolution.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

A PLEA FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to speak for peace one more time, to speak against a rush to war.

Our courageous sons and daughters have been placed in harm's way, and I will continue to support our young men and our young women, but I cannot in good conscience betray the nonviolent principles on which I have worked all my life. I cannot sit in silence when I believe there is still time. It is late, it is very late, it is midnight, but it is not too late for diplomacy, Mr. Speaker.

War with Iraq will not bring peace to the Middle East. It will not make the world a safer or better place, a more loving place. It will not end the strife and hatred that breeds terror. War does not end strife, it sows it. War does not end hatred, it feeds it. War is bloody, war is vicious, it is evil, and it is messy. War destroys the dreams, the hopes, the aspirations and the longings of a people. I believe that war is obsolete.

As a great Nation and a blessed people, we must heed the words of the spiritual, ''I am going to lay down my burden, down by the riverside. I ain't going to study war no more.''

For those who argue that war is a necessary evil, I say you are half right. War is evil, but it is not necessary. War cannot be a necessary evil, because nonviolence is a necessary good. The two cannot coexist. As Americans, as human beings, as citizens of the world, as moral actors, we must embrace the good and reject the evil.

If we want to create a beloved community, create a beloved world, a world that is at peace with itself, if that is our end, if that is our goal, our means, our way, it must be one of love, one of peace, one of nonviolence.

Gandhi said, ''The choice is nonviolence or nonexistence.''

America's strength is not in its military might, but in our ideas. American ingenuity, freedom and democracy have conquered the world. It is a battle we did not win with guns or tanks or missiles, but with ideas, with principles, this whole idea of justice and freedom and liberty.

We must use our resources not to make bombs and guns, but to solve the problems that affect humankind. We must feed the stomach, clothe the naked body, educate and stimulate the mind. We must use our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate, to heal and not to kill.

Reverend Dr. Martin Luther King Jr.'s words, many years ago, said, ''Take offensive action in behalf of justice to remove the conditions which breed resentment, terror and violence against our great Nation.''

This is the direction in which a great Nation and a proud people should move.

War is easy, but peace, peace is hard. When we hurt, when we fear, when we feel vulnerable or hopeless, it is easy to listen to what is most debase within us. It is easy to divide the words into us and them, to fear them, to hate them, to fight them, to kill them.

War is easy, but peace is hard. Peace is right, it is just and it is true, but it is not easy to love thy enemy. No, peace is hard.

Again, Martin Luther King said when he spoke out against the Vietnam War, he said, ''War is not the answer. Let us not join those who shout war. These are days which demand wise restraint and calm reasonableness.''

He was right then, and the wisdom of those words hold true today. War was not the answer then, and it is not the answer today. It is not the answer in this hour. War is never, never the answer. War is obsolete.

It is my belief, Mr. Speaker, that humankind would rise to a much higher level if we would lay down the tools and instruments of war and violence. It is not too late to stop our rush to war. Let us give peace a chance.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 5 minutes.

(Mr. KENNEDY of Minnesota addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Minnesota (Mr. KENNEDY).

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

There was no objection.

WASTE, FRAUD, ABUSE AND INEFFICIENCY IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I find it hard to understand how anybody could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from Federal contracts, and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector. So while I have read and heard about so much waste and exorbitant spending by the Federal Government that it is hard to surprise me anymore, even I have been shocked and amazed by the spending of the new Transportation Security Administration.

Apparently I am not the only one shocked by this new agency. Michelle Malkin, a nationally syndicated columnist, wrote in a column carried in yesterday's Washington Times and papers across the country, ''The Transportation Security Administration is a fiscal black hole and fiscal conservatives ought to be enraged.'' She said the TSA ''is sucking down tax dollars like a bagless Dyson Cyclone vacuum gone berserk.''

Ms. Malkin reports that ''already the 1-year-old agency has amassed a $3.3 billion budget deficit, and is demanding upward of $6 billion for the current fiscal year.''

She wrote in this column, ''Never has a single government entity spent so much for so little in such a short time.''

It is almost unbelievable to me, Mr. Speaker, that any Federal agency could lose $3.3 billion in its first year in operation. This has to be one for the record books.

A few weeks ago I read in the Washington Post a report of testimony by Kenneth Mead, inspector general of the Transportation Department. He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying they would take applications at a mall in my district, and then no one from the company showed up. I received several calls from angry constituents who showed up at 7 a.m. as the ad had directed and had driven long distances to get there, only to find no one from the company there.

If the TSA had budgeted $107 million, they should have told this company

that that was what they would get, instead of allowing a $600 million cost overrun. Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers. Most Federal contracts are sweetheart insider deals in one way or the other, but this one is the most ridiculous I have ever heard of.

Then they hired far too many people. One aviation official told me that TSA now stands for ''thousands standing around.'' I am sure that almost all of the people who have been hired are good, honest, patriotic people, but the TSA has simply hired many thousands more than they need.

I know it is impossible to ever convince any government agency that they have hired even enough people, much less too many. Yet before 9/11, we had about 28,000 or 29,000 screeners. We were told beforehand, before the legislation passed, that we would need to hire about 33,000.

□ 1730

Right after passage, they said they would need about 40,000. Then, a few months later, they went to the staff of an appropriations subcommittee requesting 72,000 employees. There was such an outcry they quickly backed off to 67,000, and then the Committee on Appropriations put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees. So I am told they now have about 66,000 screeners.

I had a screener come to see me at Constituent Day in my district a few weeks ago, and he will have to remain unnamed because I do not want to get him in trouble; but he told me that they have so many screeners at the Knoxville Airport and so many radios that when I walk in the airport, they radio ahead and say Congressman DUNCAN is in the airport, stand up, look busy. It was on the front page of the Knoxville News Sentinel that they were going from about 70 screeners to about 160. I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently, 20 TSA recruiters spent nearly 2 months at a luxury resort in Colorado, a 7-week junket, that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room. The company that ripped the taxpayers off on the screeners' contract, NCS Pearson, has been replaced by the TSA after the obscene cost overrun, but according to Ms. Malkin, the firm still holds several lucrative Federal contracts.

Mr. Speaker, I find it hard to understand how anyone could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse, and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from federal contracts and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector.

So while I have read and heard about so much waste and exorbitant spending by the Federal Government that it is hard to surprise me anymore, even I have been shocked and amazed by the spending of the new Transportation Security Administration.

Apparently I am not the only one shocked by this new Agency. Michelle Malkin, a nationally-syndicated columnist, wrote in a column carried in yesterday's Washington Times, these words: ''The Transportation Security Administration is a fiscal black hole, and fiscal conservatives ought to be enraged. . . .''

She said the TSA is ''sucking down tax dollars like a bagless Dyson Cyclone vacuum gone berserk.''

Ms. Malkin reports that ''already, the one-year-old agency has amassed a $3.3 billion budget deficit and is demanding upward of $6 billion for the current fiscal year.''

She wrote in this column: ''Never has a single government entity spent so much for so little in such a short time.''

It is almost unbelievable to me that any federal agency could lose three billion, three hundred million in its first year in operation.

This has to be one for the record books.

A few weeks ago, I read in the Washington Post a report of the testimony by Kenneth Mead, Inspector General of the Transportation Department.

He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying that they would take applications at a mall in my District, and then no one from the company showed up.

I received several calls from angry constituents who showed up at 7 a.m., as the ad had directed, and had driven long distances to get there.

If the TSA had budgeted $107 million, they should have told this company that was what they would get instead of allowing a $600 million cost overrun.

Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers.

Most federal contracts are sweetheart, insider deals in one way or the other, but this one is about the most ridiculous I have ever heard of.

Then they hired far too many people. One aviation official told me that TSA now stands for thousands standing around.

I am sure that almost all the people who have been hired are good, honest, patriotic people. But the TSA has simply hired many thousands more than they need.

I know it is impossible to ever convince any government agency that they have hired even though people much less too many.

Yet, before 9/11 we had about 28,000 or 29,000 screeners. We were told beforehand we would need to have about 33,000. After passage, they said they would need about 40,000—then a couple of months later, they went to the staff of an appropriations subcommittee requesting 72,000.

There was such an outcry, they quickly backed off to 67,000. Then the appropriations Committee put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees, so I am told they now have about 65,000 screeners.

I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently twenty TSA recruiters spent nearly two months at a luxury resort in Colorado—a seven-week junket that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room.

The company that ripped the taxpayers off on the screeners contract, NCS Pearson, has been replaced by TSA, after the obscene cost overrun, but according to Ms. Malkin, ''the firm still holds several lucrative federal contracts. These contracts total more than $500 million—including a $140 million deal to manage and operate three national customer-service call centers for federal immigration services.''

As Ms. Malkin said: ''Deeper into the homeland security money pit we go. Where the traditional watchdogs for limited government are, nobody knows.''

EXCHANGE OF SPECIAL ORDER TIME

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from Ohio (Ms. KAPTUR).

The SPEAKER pro tempore (Mr. BONNER). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

ALTERNATIVES TO WAR SHOULD BE DEBATED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, many times, many of us are not aware of the very special talents and the very diverse backgrounds Members have in this House. I was moved to listen more than I ever have to the words of the gentleman from Georgia (Mr. LEWIS). For those Members who need to be refreshed in their memories, of course, the gentleman from Georgia (Mr. LEWIS) is one of the valiant soldiers of the civil rights movement, one of the leaders of the civil rights movement, and one of those very privileged persons who had the opportunity to work directly with Dr. Martin Luther King. His words were particularly potent this evening, because he has just led a pilgrimage to Selma, Alabama, to reacknowledge the Selma-to-Montgomery march. The march of March 7, 2003, was to acknowledge the march of March 7, 1965, when Congressman LEWIS's attempt to walk across the bridge for civil rights and the right to vote was stopped by the bloody actions of those in Selma, Alabama. Today we are seeking healing, and he is proudly one that leads a

group of Members and others back every year.

So when he speaks about peace, he knows from which he speaks. I believe it might be well for this Congress to pause and this Nation to pause for a moment just to think about the issues of nonviolence and whether or not it shames us or diminishes us to find another option to the option now posed of a war against Iraq.

Mr. Speaker, I frankly believe that we have not consented to a war against Iraq; and I believe this Congress has yet to fully debate this question, a simple question of declaring war against Iraq under article I, section 8. I am asking the Speaker to bring this legislation up.

I believe that we have another option, Mr. Speaker; and it does not again diminish our respect and admiration and acknowledgment of the hundreds of thousands of young men and women already deployed, willing to offer their lives so that we might live free. It respects their choices. It also acknowledges the different strains, stresses, and tribulations that these young people are under. The story of two Marines, male and female, parents of a 2-year-old son who have to leave now, one already gone, one about to leave and writing their will to determine where that child might go.

I believe we have another option because we are united around the fact that Saddam Hussein is a bad actor, a bad leader, a horrific and a heinous actor upon people. So I believe we can find a way to win this effort against the acts that he has perpetrated by using international law. We can, through the United Nations Security Council, convene an international war crimes tribunal and indict him so that the credibility of his government and Mr. Saddam Hussein is diminished. We can leave a coalition of 50,000 troops on the border to ensure that the U.N. inspection process goes forward. We can begin humanitarian aid. We can as well regain or rebegin, regain the prominence of fighting the war against terrorism, and we can reignite the Mideast peace process.

Mr. Speaker, there are options other than war. I would ask this Congress to do its job and not be silenced, debate this question; but I ask the President to review the options in light of the courage of our young men and women and the United States military. We salute them; we praise them. That is why we are owed the duty to render the right decision on their behalf and the people of the United States of America. There is another option. I argue for peace over war. Listen to the words of the gentleman from Georgia (Mr. JOHN LEWIS.) He knows from whence he speaks.

HONORING EDDY ARNOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a true Tennessee legend and a national treasure. Eddy Arnold is the most successful country music singer of the 20th century. His body of work, including 28 number one singles, spent more weeks at the top of the country music charts than any other artist in the field.

This March, the Country Music Hall of Fame and Museum in Nashville honored the Ambassador of Country Music for donating his personal effects and memorabilia. This selfless donation constituted the largest collection dedicated to a single individual ever received by the museum. The ''Tennessee Plowboy'' generously offered more than 2,000 photographs, 5,000 radio recordings, tuxedos, guitars, and his coveted Entertainer of the Year Award from 1967.

In a brilliant career that spans 7 decades as a guitarist, songwriter and singer, Eddy Arnold has made immeasurable contributions to the popularity of country music with such hits as ''I Hold You in My Heart'' and, my favorite, ''Make the World Go Away.'' Now he has made an immeasurable contribution to the Country Music Hall of Fame and Museum. For that, Tennesseans and, no doubt, country music fans across the country, are deeply grateful.

Eddy Arnold, a living country music legend and my constituent, has enhanced his genre and the culture of America. I want to thank him for his dedication to the arts and for his invaluable gifts to the Country Music Hall of Fame and Museum.

H.R. 1322, A BILL TO PROTECT RETIREE HEALTH BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

Mr. TIERNEY. Mr. Speaker, I rise today in the face of mounting evidence of a national crisis in retiree health care, and I want to announce the reintroduction yesterday of the Emergency Retiree Health Benefits Protection Act, known as H.R. 1322.

Mr. Speaker, H.R. 1322 will stem the tide of post-retirement cutbacks or elimination of health care benefits that have victimized millions of American retirees.

Now, Mr. Speaker, one would think that businesses and business values and basic fairness and, in fact, the law would ensure that retirees could rely on health benefits promised to them by employers. But the case is that increasingly, large profitable employers, even those who enticed employees into early retirement, have now changed and are reneging on their commitment.

These corporate cutbacks in retiree health care have reached intolerable proportions. For too long, working people have been denied health care benefits that were promised upon retirement to the lack of strong laws in this area. The retirees lived up to their end of the bargain, Mr. Speaker, and now the companies must live up to their end.

To renege on these promises jeopardizes the life savings of people who are forced to absorb the precipitous decline in their standard of living and dip into their savings in order to make up for a cut or a cancellation in health benefits. Even worse, retirees with preexisting medical conditions may not be able to obtain or afford any new health coverage at all. As a result, their health declines rapidly and, in some cases, needlessly.

A recent study by the Employment Benefit Research Institute found that a 65-year-old retiree without employment-based insurance may require up to nearly $1.5 million to fund lifetime medical expenses. That is assuming death at the age of 100 and medical inflation of 14 percent annually.

All of this is happening against a precipitous drop in personal savings. According to the AARP, which published ''How Americans Save,'' the United States savings rate has been steadily declining over the last 25 years. The Economic Policy Institute reports that in September and October of 1998, personal savings rates for Americans consisting of contributions to individual savings accounts, as well as employer and personal contributions to 401(k)s and IRAs and similar pension plans, dipped below zero for the first time since the Great Depression. The United States Department of Commerce reports that at the beginning of the 1990s, households saved on average about 8 percent of their disposable income. By 2001, the proportion of income set aside for savings had fallen below 2 percent.

Mr. Speaker, H.R. 1322, the Emergency Retiree Health Benefits Protection Act, would reverse these recent trends and bring common sense and fairness back to retiree health. With certain limited exceptions, the bill would prohibit employers from making post-retirement cancellations or reductions of health benefits that retirees were entitled to when they retired.

In addition, the bill would obligate employers to restore benefits taken away after retirement, unless the employer can demonstrate substantial business hardship if compelled to restore the benefits.

Boosting a profitable bottom line would not qualify as a substantial hardship. While many employers are crying hardship today, Mr. Speaker, the hard truth is that many were aggressively cutting employee benefits in the midst of the economic boom of the 1990s when profits were high.

Basic fairness dictates that we ensure that the promises that have been made to those whose life's efforts have contributed to the great economic prosperity of our Nation are kept. We can ill afford the collapse of private

sector retiree health initiatives because retirees no longer have faith in their employers' promises.

Last Congress, this bill garnered national support from retirees across the country. My office received hundreds of testimonials from people affected by these cutbacks, and tonight I want to share three.

From my own district in Massachusetts: Leo Murphy of Ipswich, who is the regional Vice President of the National Association of Retired Sears Employees, which represents 154,000 retirees nationally, has this to say: ''H.R. 1322 will ensure that companies don't sell out their retirees whose hard work grew the companies in the first place. We all made plans anticipating our retirement years, and those plans have all been torn apart. Enactment of H.R. 1322 will restore credibility to private sector health care plans and assure that retirees and their families continue to have the health coverage they were promised and worked for all their lives.''

From a retiree in Morristown, New Jersey: ''What a hardship it has been to see the health coverage I retired with, and fully expected to continue as is, be constantly whittled away. It just isn't fair. Not only is it eating into my pension every year, but my pension has not received a cost of living increase for the past 10 years. Please help us; we are counting on you. And thank you again for caring about us.''

And from Wellington, Florida:

''I am writing you concerning retiree benefits. I retired in 1991. Since that time, the company has reneged on promised retiree life insurance. The company has also made the retiree medical plan almost unaffordable by raising premiums far beyond the normal type increase. They have cut averages and cut coverages, they have raised deductibles, and made it pretty obvious that retirees are a liability, and please go away is the preferred method of handling retirees. Legislation is needed to protect retirees from vigilante actions of companies and protect retirees from unscrupulous company executives. Since many companies can no longer act in a trustworthy manner towards retirees, it will take Federal legislation to protect retirees when those retirees are the most vulnerable and least able to provide replacement benefits.''

Mr. Speaker, I thank my colleagues for their courtesy, because I have received hundreds of testimonials from these people. Congress should act, and I hope my colleagues will join me in supporting H.R. 1322.

□ 1745

WHAT COULD AMERICA DO DIFFERENTLY TO PREPARE FOR ANOTHER SEPTEMBER 11?

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, imagine if we could rewind the tape, we could rewind it back to September 10, 2001. We are sitting around looking at the world. We know that in 1993, the World Trade Center was bombed. We know that 17 Americans were killed when the USS *Cole* was bombed in Yemen. We know that two embassies in Africa have been bombed. We have withdrawn from Somalia.

If it was September 10, 2001, and we were taking a sober assessment of the world, what would we do differently? Particularly what would we do differently as respects the events of September 11?

Mr. Speaker, obviously we cannot rewind the tape ever, but the reality is we are sitting potentially on another September 10 date right now. We have been in this world for a long time. We are looking at a world where Saddam Hussein had 90 days from April, 1991, to disarm after withdrawing from Kuwait and after the U.N. action that we know of as Desert Storm.

We know that in the 12 years that followed April 19, 1991, he flaunted the weapons inspection process. We know that weapons inspectors such as Scott Ritter quit in disgust. We know that it was criticized. We know that he went 4 years without having U.N. weapons inspectors. We know that indeed 17 U.N. resolutions have gone by.

Our President has been very patient with the U.N. diplomatic process. It is too bad that it failed. It is too bad that maybe the U.N. could have stepped forward a little bit stronger during any of the time in the last 12 years, but that did not happen. Maybe the future of the U.N. should be debated in another Chamber at another date.

The reality is Saddam Hussein has chemical and biological weapons, and has tried to get nuclear weapons. We know that he has murdered hundreds of his fellow men. We know that Amnesty International and Human Rights Watch estimates that there is something like 70,000 to 150,000 people who have disappeared in Iraq, which is more than any other country in the world.

We know that in the year 2000 they implemented tongue amputations as a way of dealing with their enemies. We know that he uses torture. We know that he drills people. We know that he rapes people. He films things like this and shows it to family members. We know that, indeed, he has killed some of his own family members.

The message from the United States of America to the people of Iraq is that the enemy of Iraq is not the United States of America; rather, the enemy of Iraq is their own government; very specifically, Saddam Hussein.

We in America stand against oppression. We in America stand for the liberation of the people of Iraq. We in America stand for our own homeland and national security, and we in America stand for our own troops, who at this moment are abroad and ready for action.

I hope that in the 11th hour of this long process Saddam Hussein decides to step forward and save his country as he knows it and to help support another regime. I hope we do not have to pull the trigger; but should we need to do that, we will be successful. We will liberate the people of Iraq. We will do the right thing.

Mr. Speaker, let me close with just saying that on this very critical hour in our history, we all say a prayer for our troops, and we all stand behind our troops. God bless America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. RUPPERSBERGER) is recognized for 5 minutes.

Mr. RUPPERSBERGER. Mr. Speaker, the last few weeks have been a time of solemn reflection and debate in this country. It has been an impassioned and peaceful process with many voices heard, which have again reinforced the United States as the world's greatest democracy.

We owe our system of democracy and self-concern to America's veterans, who have given so much to ensure its legacy. Today our military is once again on the brink of a great sacrifice in the name of security and freedom for America and the rest of the world. Without reservation, it is time for all Americans to come together to support our men and women in uniform and their families back home. Our country's focus must now be on the success of their mission.

I urge every American to join with the Congress and our President to wish our Armed Forces Godspeed and safe return from abroad. However, we must not lose sight of our mission at home, the mission of our police officers, firefighters, and emergency personnel, our first-line responders, in the event of a terrorist attack that might occur.

While our Armed Forces have our full support, the front lines of our homeland and hometown security are our cities, counties, and towns. We must equip our first-line responders the same as we equip our military abroad.

Since the fall of 2001, local governments all over America have had to bear the burden of equipping and training all of our first responders against an unknown threat. My district, which is the Second Congressional District in Maryland, is home to two Army bases, the Port of Baltimore, Baltimore-Washington International Airport, and

the 17th largest city in the country. This lack of funding directly affects every community in our metropolitan area.

Last year the Baltimore region alone spent more than $14 million to protect itself. Cities, counties, and towns cannot do it by themselves; they need Federal funding to equip our first-line responders. We must train our first-line responders. We must give them the equipment to protect themselves so that they can protect us in the event that there is a terrorist attack.

Put against a tax cut that equals $117 billion, $3.5 billion is not asking for too much to protect and to give the resources to our front-line responders. I urge my colleagues across the aisle to reconsider their budget priorities so that they better reflect the priorities of the American people as it relates to our protection and our security. We must provide the tools necessary to our first responders that would protect our citizens.

In today's Washington Post, the Secretary of Homeland Security, Tom Ridge, said that the President plans to propose a supplemental Federal budget to pay for more counterterrorism measures. I applaud that; however, for the sake of our country, our citizens, our hometown, our homeland, I hope these counterterrorism measures include more resources for local governments and first responders.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

(Mr. LYNCH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

(Mr. KUCINICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PROPOSED BUDGET FAILS TO PROVIDE FOR HOMELAND SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Oregon (Ms. HOOLEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. HOOLEY of Oregon. Mr. Speaker, I want to talk about the budget we are going to have tomorrow. A budget needs to reflect what our national priorities are. That is what a budget is all about, making choices.

I want to tell the Members, although I made several attempts, as well as many members of our committee, to make changes in the budget, all of those were defeated. I am going to talk just a minute about one of those issues, and that is homeland defense.

This is a time, Mr. Speaker, when more than ever we need to make sure that our counties and cities and States are well-equipped for our national security. This budget fails to adequately provide for our homeland security. The President said we were $2.2 billion short in homeland security. The Secretary said we were short $2.2 billion for homeland security. Yet this budget leaves that shortfall.

Let me just talk a minute about what is happening in our State. Our State has high unemployment. We are laying off our police and our firefighters. Our young men and women who are in law enforcement are being called up for the National Guard and being sent to the Middle East, and many are already in the Middle East. Our local communities frequently do not have equipment that talks to one another, communicates with one another.

What we are trying to do in this budget and what the Republican budget lacks is the money to make sure that our local police and our local fire departments and our local emergency workers, not only that we have adequate personnel, but that we have the equipment so they can respond if there is a terrorist attack in the United States and in our communities.

I cannot believe that we are going to do a budget at a time like this that does not respond to our local communities and our local States for those people that are going to be the first line of defense.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank my colleague for yielding to me.

Mr. Speaker, this Republican budget resolution is a failed economic plan that proposes $1 trillion in tax cuts in search of an economic purpose. This budget follows President Bush's $1.3 trillion tax cut 14 months ago to get this economy moving and produce jobs. That was the argument behind the original tax cut.

The net result is 2.5 million Americans today are without work who had work prior to that tax cut, and there are 4 million more Americans without health care who prior to that tax cut had health care, 2 million more Americans who have moved from the middle class to poverty prior to that tax cut, and $1 trillion worth of corporate assets have been foreclosed on and hit Chapter 11. That has been the net effect of this tax cut.

Now, what are we about to do? We are about to put our foot on the accelerator 14 months later for another $1 trillion plus tax cut that will have the same effect of lost jobs, lost health care, lost corporations and family dreams, and more and more Americans moving from middle class to poverty.

We need to move the trend the other way. We need an economic plan, not just a tax cut. While we consider this budget, we as a Nation, as one Nation, as one country, are moving closer to war. We also have a plan now for that war and for after that war to rebuild Iraq; in the range of $100 billion they are talking about rebuilding Iraq. The administration's postwar request would build more housing, more schools, and go further in providing health care for pregnant woman in Iraq than this budget provides Americans. The Wall Street journal wrote on Monday that the postwar reconstruction of Iraq is ambitious in scope and speed.

I want to read some of the juxtapositions that are playing here, so as Members on the other side think about their vote, it just does not get glossed over by one fix or two in what we here in this Chamber call the manager's amendment.

Let me read under health care. Medicaid provides insurance coverage for over one-third of the live births nationally here in this country, yet Medicaid is scheduled for a $95 billion cut. In Iraq after the war, maternity care will be guaranteed for 100 percent of the population.

The U.S. budget we are about to vote on does not provide a single dollar of health insurance for the uninsured in this country, where we have 42 million Americans who work full time without health care. In Iraq after the war, 13 million people, half the population, will be guaranteed health care coverage.

Under education, the U.S. budget cuts Head Start for 28,000 children, cuts education spending by 8 percent, zeroes out 40 new programs, like technology, like Star Schools. In Iraq, there will be guaranteed books and supplies and 100

percent enrollment for 4 million schoolchildren in Iraq, with U.S. dollars.

Teacher quality programs in America are cut by $9.3 billion, more than 10 percent, and 25,000 schools in Iraq will be rebuilt and renovated at standard level of quality.

Housing, we only have in this budget enough dollars for 5,000 new affordable housing units; yet in Iraq the plan is for 20,000 new units of housing.

The Army Corps of Engineers is scheduled for a 10 percent cut in this country; yet our plan for Iraq calls for total reconstruction of the Umm Qasr port so it is fully opened for cargo traffic.

□ 1800

That is the plan for Iraq. That is also the plan for America.

Under Transportation, highway funding in America is cut by $6 billion over the next 10 years. In Iraq 3,000 miles of new roads will be rebuilt.

Now, after that juxtaposition, I am not against the reconstruction budget for Iraq. If you want to build democracy, that should be the commitment of our country. The plan for Iraq is robust. The plan for America must be robust.

The plan for Iraq has been thought through in an economic strategy. The plan for America must have the same strategy, the same care for its health care, for its pregnant women. The same care for its schools. The same care for its housing. The same care for its infrastructure.

This budget that we are going to vote on leaves too many Americans behind. Because of the impact of the 2001 tax cut, 2.5 million Americans without jobs, 4 more million Americans without health care, a trillion corporate assets foreclosed on, and 2 more million Americans who have gone from middle class to poverty. One could be cynical enough to think that what I just read about Iraq versus America could be distilled down to 30 seconds.

I want Members to think about this before they vote on this budget. Just papering over the differences on Medicare will not erase the differences between America and Iraq when it comes to our investment in education, health care, housing, our infrastructure. We need a robust plan for America. And this budget falls woefully short as it pertains to our future, our families' future and their children.

Now, I am committed to working, if we win this war, which we will win this war, to the reconstruction of Iraq. I want the same emphasis, the same desire, the same dreams, the same hopes that our President talks passionately about for Iraq for here at home. Because we cannot guarantee 100 percent of pregnant women in Iraq with basic health care for their pregnancy and yet cut $95 billion of Medicaid where one out of every three Americans get their health care as it relates to their child birth. We cannot cut 40 programs, zero them out, Head Start schools, technology schools, teacher quality, and yet guarantee 25,000 new schools will be built in Iraq.

We cannot talk about 25,000 new housing in Iraq and yet only provide the funding for 5,000 new affordable housing in America. That is not a dream for America. That is foreclosing on America's dream.

And I know there are good people with good values on the other side who think hard about what they are doing, and I want them to think hard about the vote that they are going to cast on that budget because they have to go back home and explain how Iraq got moved to the front and their families, their neighbors got moved back. That is not right. We can do better.

It need not be a Democrat-Republican issue. Let us make America first not only around the world but here at home.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from Oregon (Ms. HOOLEY) for her distinguished service in the House, and I thank her for putting together this Special Order.

Mr. Speaker, I rise this evening to talk about what will be coming before the House of Representatives, the House of the people, and that is our Nation's budget. We know that the Federal budget is a very, very thick book of many, many pages with fine print and many, as we say, line items. But at the end of the day what a budget is about is not only a compilation of numbers but it is a statement of the values of the American people.

I have done much budgeting in my day from local government, the county of San Mateo, where we were required, obviously, to balance our budget. I still adhere to that because I think being fiscally responsible is not only necessary but it is the prudent thing to do.

So what is this budget debate going to be about? Both sides of the aisle are really challenged to come up with their best ideas for their vision of our country, of where we are going and what we need in order to get there.

Tonight on the Feast of Saint Joseph, the worker, our country is on the brink of war. And yet the President's budget does not include one dime for that. There is something wrong with that picture. There is something very wrong with that picture.

Let me give you a picture of my congressional district. It is a very distinguished place in our country. It is the home of Stanford University. It is the home of Silicon Valley. In 2 short years everything that was up is now down. We have one of the highest unemployment rates in our Nation. Our State is facing up to a $35 billion deficit. Keep in mind that our State and our local governments represent 12 percent of our national economy.

Now, what are the President and this House proposing in their budget? The same old same old. How many months ago? 18 months ago the President said as the economy was sputtering. We need massive tax cuts. Tax cuts that would go to the wealthiest, the best off in our Nation. It is a legitimate argument that was pitched then about whether that was the best prescription for our Nation's circumstances. I voted against it because I thought at the time that when the sun is shining, that is when you fix the roof. We did not do it. Squandered the surplus.

We now have a different economic condition in our country. Indeed, our country faces even more challenges than we could have ever dreamed of as the first roll of tax cuts went out. So what is contained in this new budget that the President has brought to us and your Republican friends are going to bring to the floor? More tax cuts. I believed it was wrong then; it is certainly wrong now.

Imagine if Winston Churchill, when he was rallying his countrymen to go to war said, And in addition to my rallying you, my countrymen, I am calling for a massive tax cut.

This is a sober time in the life of our Nation and in the families of our Nation. Many have committed their children, their treasury and our Nation's treasury to this war in Iraq. Veterans benefits should not, therefore, be cut. Our Nation's defense needs to be paid for. But the education of those that are serving in Iraq, their children's education should not be cut at home. We do them a disservice. We dishonor them, and we dishonor the future of our country by doing this.

This is not about throwing money at things. This is the responsibility of a great democracy. That is why the Democrats have held the line on education here at home. It is why Democrats recognize that we will not have homeland security unless we fund hometown security. There is something wrong when the firefighters from my district who came in to meet with me just this morning said, because hometown security is not being funded, our positions, our jobs are being eliminated. Now that does not make sense. It is not right.

I keep thinking of what my father used to say when something really got mucked up. He would say, You have made a real mess of this. This is a harsh judgment of my Republican colleagues, but you have made a mess of the economic life of this country, a real mess. We are now back to you have produced a deficit and it is over $300 billion. You will drive the national debt up to at least 5 trillion. The cost of this very tax cut that you are going to bring to the floor in your budget, the cost, the price tag of that alone is $1.6 trillion.

This is not pitting those that have more against those that are average, against those that have even less. This is about the United States of America. We are all in this together. And so the fairness and the responsibility and the

fiscal responsibility need to be exercised. It is a budget that leaves the American people wanting. If we cannot fund properly our national defense, our hometown security, education for our children, and the health care of our veterans and those amongst us, then what have we come to? What have we come to?

We have a responsibility not to place these burdens on our children, our grandchildren, and our great-grandchildren. The Democratic budget recognizes that. That is why I am proud to stand next to it. The Republican budget does not.

It is no wonder that those in Republican seats on the other side of the aisle are rising up and saying, This is not fair and we are not going to vote for it. I salute their guts and their courage to do that. Why? Because our Nation's treasures are putting their lives, their courage, their lives on the line some place else on the globe; and we need to stand next to them by honoring their families here at home. That is what this is about.

So, Mr. Speaker, as we come to the floor and speak about what is going to come to us on the floor, there may not be that many people in the country listening, unfortunately. Why? Because legitimately we are preoccupied with the moment when America is going to strike. But whether people notice it or not, whether they notice it or not in terms of our words in this debate, make no mistake about it, it will be felt. It will come home to each individual, each mother, each child, each health clinic, each classroom, each senior center, each lunch program in your grammar schools and our elementary schools.

It will be felt in communities across this country. Why? Because that is what our Nation's budget is about. It is about our democracy. It is about what we value. It is about where we place our priorities. I hope that it is a budget that reflects the best of us and not some bumper sticker. I hope it is a budget that funds what is going to collectively take us into the future. I hope it is a budget that does not shortchange what children eat in their lunch programs, whether they have a classroom that is the right size, whether their teacher is trained and educated the right way, whether those that have served in other wars are honored with the benefits that they receive. I hope it is not a slap in the face to America. That is not what this should be about.

I am proud that the Democratic alternative will take us back to a balanced budget by 2010. I do not think our friends on the other side of the aisle can boast that. It covers the priorities that we believe not only have made our Nation great in the past, what has been given to us, but what we can do for the future of our country.

□ 1815

I thank my colleagues, especially the New Democrats, for taking time this evening to demonstrate the differences, because there is a difference, Mr. Speaker, and, Mr. and Mrs. America, between the two major parties. It is our responsibility to bring our ideas forward and have them be part of the debate in this country about which way is the best way to go. I thank my colleagues, and I especially thank the gentlewoman from Oregon who has brought such leadership to this.

Ms. HOOLEY of Oregon. I yield to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I want to stand by the words of my colleague from California. There are many of us here, especially among the New Democrats, that did vote for the tax cuts going back almost 18 months ago. I come from New York. In New York, we love tax cuts, mainly because we pay so many taxes on the island. But I have some real problems with the budget that we are looking at.

We are supposed to debate this tomorrow, and I hope that we do, but I understand that many of my colleagues on the Republican side are having a real problem with the budget that they saw, and I hope they stand together, because we as a Nation are going through some very, very tough times. America, as I said, is going through some very trying times. The economy is struggling, unemployment unfortunately is up, consumer confidence is down, and our Armed Forces are gearing up to go to war.

Tomorrow possibly, if they can come to an agreement, this body will debate an overall budget for this country that hopefully will address all of these concerns. And I hope it is a good debate. I hope they allow us at least to even put our budget forward. That is what this great place is about, the debates. Then we have the vote. We either win or we lose. But unfortunately around here lately, we are not even allowed to put a substitute up. I am always hopeful.

The two proposals that I have seen, one from the administration and the other from the House Budget Committee, do not come close to addressing our concerns. I am going to have a very hard time going home and telling my constituents that I might be cutting after-school programs, student loans, teacher quality programs, COPS funding.

COPS funding. That should be part of our homeland security. I know in New York City, they are spending an extra $5 million a week. COPS programs, that is helping my community work with my schoolchildren to make sure that the areas are safe, and to get the kids to know them so that they have someone to go to when they need it.

A highway fund. We all know that when we put money into the highways, those are jobs, not only making our infrastructure better, but also it helps the mom-and-pop stores because our construction workers have to eat. Our construction workers, by the way, pay our school bills.

But I have to say, when you try to make room for a back-loaded tax cut plan proposed by the administration that provides a very, very minimal stimulus, I think we have a problem. I cannot go home and tell my constituents that I slashed funding for our veterans. We are on the brink of going to war. We have young men and women overseas getting ready to protect this country, and we are showing our older veterans the compassion by cutting their funding for health care. There is something very, very wrong with that.

I spent my life as a nurse before I came here. I know firsthand that our hospitals across this Nation are struggling to keep their doors open. Yet in the Republican budget we see more slashes for Medicare and Medicaid. There is something very, very wrong with that.

I am one of these people that do not believe in kicking someone when they are down. If this budget passes tomorrow or Friday, we are going to be hurting an awful lot of people.

Again, are we going to have a decent prescription drug plan? Out on Long Island, I have my seniors that cannot even afford to be able to buy their medications. That is wrong. No one should have to go without their medications. I look at things holistically. If you are not giving medications to the patient, they are going to end up in the hospital, and it is going to end up costing more money. Yet in the wisdom of my colleagues on the other side of the floor, they want to cut Medicare reimbursements, they want to make our hospitals have to even cut back more, which means, by the way, they are not going to be able to hire nurses to take care of the patients.

We have to look at things, in my opinion, on how we would run our house. We all have to make sacrifices. We all have mortgages. We all have bills to be paid. We sit down and we look to see what has to be done. But this budget, the Republican budget that is coming out tomorrow, is totally unacceptable.

I think the shame of it is that we are making these cuts so we can make room for a $1.4 trillion tax cut. I do not know. I think the American people, if anybody is watching, would kind of sit around and say, wait a minute. My mother, maybe my grandmother, maybe she needs to go to a nursing home. She needs her prescription drugs. Those are going to be slashed? I do not know. That is not the way you cut a budget.

Then we have the war. We all know most likely that we will be going soon, but there is not one penny in either proposal of the budgets that I have seen for the war or even the cost of rebuilding the economy. Some argue we can address these costs in a supplemental. I understand supplementals. However, these supplementals are becoming like second budgets. If we have any kind of an idea of what something is going to cost, we should budget for it, and we should budget for it now.

I know we are going to go into some debt because of the war, and that to me is good debt. It is good debt mainly because we are protecting this Nation, and we are going to be protecting other nations so that they can have democracy and freedom and freedom from terrorism. We have to look to see what our priorities are.

This body, and I happen to think the Democratic budget substitute is the one that we should be looking at, it puts us back in balance, and that is what we all want. It provides a stimulus package that actually will stimulate the economy. We should have been doing this in January. We should have been stimulating the economy so that we would not have unemployment going up and up and up.

Homeland security. I talk to my schools, I talk to my firemen, I talk to our police officers, I talk to my county executive. They are trying to put plans together, but there is no money there. Most of our States, as I have mentioned before, are already in debt, so they cannot even spend the money. My county is in debt, and we have worked very hard to try and get out of debt, but unfortunately sales are down, so tax revenues coming in are not there.

The Democratic plan also offers a sensible prescription drug proposal.

The other thing is we are going to make sure that the funds are there for our military. This can be achieved by providing a stimulus that is reasonable and targeted to the people who need it the most.

The American people are looking to Congress to pass sensible policies that not only encourage investment, but also increase goods and services. Again, we have to be able to do a number of things here. We have to make sure that we are there to protect our armed services, but we also have to make sure that the country is economically sound. The Democratic proposal can do that. The Republican budget will not.

Unfortunately, the choices before this body suggest policies that do more harm than good. For example, half of the costs associated with President Bush's tax cut involve an elimination of the tax on dividends. To be honest with you, I do not have a problem with that. In better times, I probably would vote for it. I happen to think that in the long term it might be good for this country. It is not good right now. It is not the best bang that we can get for our dollar. I am hoping that we might be able to take this out and address it next year when things are better. This particular provision should be included in a long-term tax reform bill, as I had said. We should debate this at a later time when we can afford it.

A true stimulus plan provides immediate capital to assist an ailing economy. I believe that eliminating the tax on dividends does not provide us with the bang for the buck as we need it, as I said before. And though I understand the need to make sacrifices, and I know the American people understand what sacrifices are, if we want to jump-start the economy, it should not be done by passing bad policy. I want to support a budget that actually stimulates while taking into consideration long-term budget implications. There is no room for political gamesmanship when people lose their retirement savings or their jobs.

Again, I am just going to say, what I saw on the Republican budget, large cuts to education. It cuts my veterans' benefits and health care. My hospital on Long Island for my veterans can barely keep its doors open now. It fails to protect the environment. It fails to make the adequate investment in health care.

I know that we have tough decisions to make, but again, the Democratic plan covers all these issues, makes them fair, and certainly brings hopefully a little bit of sunshine down the road when we can go back into a balanced budget.

I hope the American people get involved in this debate. I hope that they call their Representatives, because the pain that we are going to be feeling not just from the war, but from the cuts on educating our children, taking care of those in the hospital, taking care of those at home, taking care of our seniors, that is not where we should be making cuts.

Ms. HOOLEY of Oregon. I thank the gentlewoman for her thoughts today and for advocating a fiscally responsible budget.

I yield to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, first I want to thank the gentlewoman from Oregon for organizing this hour to talk about a very important subject, the budget. Of the many things that are disturbing about the budget that the President has proposed and the Republicans have proposed here in the House of Representatives, I think perhaps the most disturbing, is the chatter that is coming out of the Republican side of the aisle that deficits do not matter. It used to be that a balanced budget amendment seemed to be required, and now we have sort of decided because it is inconvenient to have to balance the budget that deficits no longer matter.

They have come up with all kinds of fascinating arguments as to why that is. I think the biggest one they focus on is to say that deficits do not really affect interest rates, because that is typically one of the arguments against running deficits is that if the government is gobbling up all the money out there, it is going to drive up interest rates and hurt the overall economy. They point to various points in our history and say that, well, in the 1970s we did not have much in the way of deficits, and we had very high interest rates. In the 1980s we had high deficits and lower interest rates. That is debatable. It seems to me just as an economic matter, if you run deficits over a long period of time, eventually that is going to have a negative effect on interest rates. But even ignoring that point, it is simply true that you cannot run a deficit forever.

The biggest reason that deficits are, in fact, a problem is that they suck up all the money for the future and get us to the point as a country where all we can do is pay the monthly payment, just like someone with a credit card debt that is out of control, where they are simply trying to pay the monthly payment, and the interest keeps racking up. The amount of money that we will spend on interest will accelerate. The amount of deficits we run up on a year-by-year basis will accelerate under the President's budget. Ten, twenty, thirty years from now, we are going to have no money for any priorities, be they Republican, Democrat or whoever.

So if we can at least eliminate one notion, during the debate tomorrow I would hope that someone on the Republican side of the aisle would stand up and say that deficits matter. They are something we should be concerned about, and just because they are inconvenient, we should not turn logic on its head and suddenly say we do not care about them anymore.

The other thing that is truly disturbing about this budget is never in the history of this country have we cut taxes while at the same time going to war. The unrealism of that puts us in huge fiscal jeopardy and puts us in a position where we will not be able to meet our obligations in that war. Keep in mind, we are really about to enter our second war. Al Qaeda declared war on us years before September 11. That war was crystal clear after September 11. So dealing with that challenge was number one. Now we are about to launch a second war in Iraq and we, the Republicans, are telling the American people that we can still cut taxes by hundreds of billions, trillions of dollars.

That is hopelessly unrealistic. We have already seen the impact of it, the lack of funding for homeland security, and we are very concerned about it, the lack of funding for the war in Iraq for that matter. It has not been put on the table as part of this budget, and we know there is going to be a cost. That is very, very unrealistic.

The last thing that is troubling about this budget is it in no way stimulates the short-term economy. The tax cut that is being proposed, only 10 percent of that tax cut will come into being in the first year, right now, when the economy is in trouble. If it were truly stimulative, that is where the money would be. Ninety percent of this tax cut is at least 1 year away, which means it is going to have no impact whatsoever on our economic problems today. Presumably in 2, 3, 4 years, the business cycle will return, and we will have a strong economy, and what is the purpose of the tax cuts then? Certainly it is not stimulative.

That is the overarching problem with this budget. This budget reflects a philosophy that says fundamentally we need to cut the Federal Government dramatically. The tax cut that was passed 18 months ago, or almost 2 years ago now, was bad enough. It set us on a path when fully implemented to dramatically see that reduction. Now to pile on another trillion dollars will put us in a position where we will not be able to fund many priorities.

Again, the Republican majority is being very disingenuous about this. They come before you and they talk about the no child left behind bill, their commitment to education. They talk about a prescription drug benefit. They talk about the need to deal with health care. If you are going to cut taxes by trillions of dollars, you are not going to be able to address those issues. The no child left behind bill is already on pace to be underfunded by $12 billion from what the President said he would do as a starting point. What this shows us is we cannot meet those priorities. The rhetoric talking about them is simply empty.

So one final thing I would ask of the majority in the debate tomorrow is to make that clear to the American people, that this is the choice. Do you want simply to have the largest tax cuts possible, primarily for what they like to refer to as the investor class, which primarily means not most of the people in America? Do you want to have that, or do you want to fund these priorities? Because when the Republicans get up here and talk about a prescription drug benefit and talk about education, understand they have no plan whatsoever to fund it. To the extent it is in there, it is only in there rhetorically. We simply cannot have the tax cuts that they are talking about and fund the priorities that they are talking about.

Let us have an honest choice. Let us honestly assess what our choices are, be fiscally responsible, fund our priorities as they lay out there and not pretend that we can have it all; not pretend that in essence we can spend the same dollar three or four times.

Again, I want to thank the gentlewoman from Oregon for bringing this debate out. Tomorrow I think we will have the opportunity to talk about it further. I would urge us to reject the Republican budget plan.

Ms. HOOLEY of Oregon. I yield to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I rise this evening to talk about the budget resolution we will be asked to consider tomorrow, a budget that I believe is one of misplaced priorities. Just a few hours ago, the gentlewoman from Oregon and I went before the Committee on Rules to urge support for what I believe must be one of our foremost priorities. The gentlewoman from Oregon and I asked that an amendment be declared in order that would provide $2.2 billion in funding to first responders not next year, but immediately, in fiscal year 2003.

I believe that we can and must agree to put aside our differences and fund first responders. It is my sincere hope that we will be able to consider this important amendment on the floor tomorrow. We say first responders are a priority, but as happens all too often in Washington, it is one thing to call an initiative a priority, and it is an entirely different matter to devote the funding required to validate that priority. In this particular case, there is no question that the need is real, immediate and essential.

I represent the First District of New York, the western boundary of which is no more than 40 miles from the border of New York City, clearly one of the most prominent targets for terrorists, and I have spoken with our firefighters throughout our district, our police officers throughout our district, and they recognize that they are ill-equipped to respond. They need training, they need equipment, and the Federal Government must provide the support that they require.

I also come to the floor today to discuss our priorities as a Nation and to talk about how I believe the Republican budget that we will consider tomorrow is a budget of misplaced priorities. As we consider this budget, we have an opportunity to make the right choices for our Nation, choices that will strengthen our families, secure our communities and send us back down the road to economic security. Instead, my colleagues on the other side of the aisle are forcing a vote on a budget that is the antithesis of fiscal responsibility and sends our Nation back to deficits. These deficits stretch out as far as the eye can see, and they squander desperately needed programs for working families.

If the goal of the Republican budget is to provide a shot of adrenalin to our economy, in my opinion this plan falls far short of that goal. The Republican budget puts forth a costly economic growth package with less than 3 percent of the proposed tax cuts occurring this year when it is most needed. On the other hand, the Democratic proposal would provide four times the amount of stimulus provided by the House Republican proposal with $136 billion in targeted tax breaks applicable immediately. These tax breaks will encourage investments by business and help those who are in the greatest need of relief.

Both the Democratic and the Republican budgets would balance by the year 2010. The difference is that the Republican budget would do so by forcing what I believe are unconscionable cuts to key mandatory and discretionary funding programs. The Republican budget would cut important programs such as student loans, veterans' benefits, and school lunch programs by as much as $98 billion over 10 years. Today when so many families are sacrificing and struggling, it is not the time to crack down on veterans, students trying to earn a college diploma and schoolchildren from low-income families who deserve to eat a nutritious meal.

Why do we not try this? If we are going to crack down on anyone, why do we not crack down on corporations that relocate offshore exclusively for the purposes of evading their United States tax obligations?

Further, the Republican budget would undermine domestic appropriations by $244 billion below the amount needed to continue programs at today's level. Passing this budget will hurt working families, children, the elderly, veterans, seniors, and so many others. These types of cuts are difficult to justify under any circumstance. They are impossible to justify when one considers that they result from an irresponsibly large, massive package of tax cuts geared to the very wealthy. Why should we give an additional tax cut to the top 2 to 5 percent of wage earners in this country when doing so requires us to seriously undermine so many important programs, and doing so also imperils the long-term security of Social Security and Medicare?

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We need to do the right thing tomorrow and pass a real stimulus package, one that stabilizes our communities by delivering results for small businesses and working families now rather than later. Now is not the time to be forcing damaging budget cuts that undermine the social fabric of our communities just so that we can provide additional tax breaks to those who make the most. Now is the time to act with fiscal responsibility in mind to jump start the economy and to provide lasting investments in our families.

I believe that we know what our priorities should be, and I urge my colleagues to vote for the Democratic budget substitute tomorrow.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague from New York.

I yield to the gentleman from Florida (Mr. DAVIS) who has been working on budgets since we both got here.

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentlewoman from Oregon (Ms. HOOLEY) for yielding.

Tonight the Congress starts its debate as to the budget resolution, which represents a statement by the Nation as to our priorities as a country. On the eve of war, this is a more solemn event than ever, and I think it is fair to say that the United States citizens expected their Congress more so than ever to come together, Democrats and Republicans, the House and Senate, the Congress and the President, on a realistic plan, not politics, not gestures, not symbolism, something that truly represents a plan to keep our country secure and strong and to plan for the future, as we are expected to do as leaders.

What I would like to do tonight is to highlight in what I hope is the most accurate fashion possible the Republican

budget resolution and the Democratic budget resolution and along the way to express my opinions in terms of how I think we bring this all together. First of all, I think it is fair to say that the Republican budget resolution has as its centerpiece a tax cut over 10 years in the amount of about $1.3 trillion. This is truly a very significant tax cut. I think it is also fair to say that virtually every Member of Congress serving here today has promised the people that we represent that we intend to enact Medicare coverage of prescription drugs in order to deal with a growing crisis in our country as far as seniors and disabled and other people lacking access to critical prescription drugs. And so both budget resolutions must be measured against that standard.

The Republican budget resolution, it is fair to say, sets aside $28 billion, $28 billion to cover the cost of Medicare coverage for prescription drugs, I might add a very minimal fraction of what the President proposed as that cost. In addition, it is fair to say that the current version of the Republican budget resolution calls for significant cuts in spending, some of which have already been referred to here tonight. These cuts are going to be very difficult to defend to the people at home. They are significant cuts in veterans benefits. They are cuts in student loans. They are cuts in the Medicaid program that States that are struggling to meet their budgets right now are relying upon to furnish a safety net there. They are cuts in funding for the environment. These are significant cuts. Particularly like a State like mine, Florida, these cuts will have real impact on people at home.

Finally, the Republican budget resolution calls for a deficit of $319 billion in the next year, a staggering deficit, one that will bring with it a significant interest cost that every man, woman, and child will be paying in this country as the Federal Government goes deeper into debt. It is also important to point out on the eve of war that the Republican budget resolution provides not a single penny for what we all know will be a very expensive war in Iraq, not to mention perhaps an even more expensive cost of dealing with Iraq after Saddam Hussein has been disarmed, after Saddam Hussein is gone.

I think the weaknesses, the limitations in the Republican budget resolution are terribly self-evident. At a time where I expect the President will surely call upon the Nation to sacrifice, to participate in the commitment our men and women abroad are making and their families are making without them here at home, it is not the priority of our country to call for a $1.3 trillion tax cut. Taking that tax cut is not the type of commitment, not the kind of sacrifice people have in mind in supporting our troops and supporting our President and supporting our Nation. Cutting veterans programs, depriving students who have worked so hard to get through high school the opportunity to go to college, losing students loans, these are not the things that made our country great. This is not what we stand for. This is not what we are fighting about. These are not our priorities.

Let me talk about the Democratic budget resolution and start by saying in fairness to the Republicans, we clearly are in a challenging situation here in terms of how to juggle our competing priorities. The Democratic budget resolution, which I strongly support, represents an attempt to build on the more constructive features of the Republican budget resolution and the more constructive features of the President's budget and then attempts to improve upon them and not to simply criticize them.

So let me highlight some of those points. The first is that the Democratic budget resolution calls for a tax cut of approximately $136 billion compared to $1.3 trillion in the Republican tax cut.

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The centerpiece of the Republican tax cut is the elimination of a tax on dividends for some corporations through a very complicated process that will not take effect for some time. That has been presented as a stimulus. I think it is fair to say that is at best a fundamental change in tax policy, and because it has no effect any time soon, it is not really going to stimulate the economy at a time when we need the economy to be stimulated.

In contrast to that, the proposed Democratic budget alternative calls for immediately putting into effect a more accelerated type of depreciation for businesses, an attempt by the Federal Government to say to small businesses, medium-sized businesses across the country, we want to encourage you to invest in your company, buy the equipment you need, make the purchases you need to keep your business going, and you are going to pay less taxes on that as part of our attempt to help stimulate the economy.

The Democratic budget alternative also makes permanent the child care tax credit and the marriage penalty elimination, which benefits a huge number of Americans and will put money in their pockets, which will help stimulate spending and the economy.

On the spending side, the Democratic budget alternative does not make the cuts in veterans' benefits, in student loans, in environmental programs. It keeps those programs continuing. It funds them to take into account growth and inflation. I cannot think of a worse statement of our priorities than to be cutting veteran benefits in the days ahead. The Democratic budget alternative does not do that.

With respect to prescription drug coverage under Medicare, the Republican budget alternative calls for $28 billion. The Democratic budget alternative calls for $528 billion. This is a realistic sum. This is a number that Democrats and Republicans ought to be able to work with. It is not dramatically different than where the President started. It is a higher number. This is an attempt to find common ground to finally do what the politicians have promised people at home for far too long, to begin to cover prescription drugs.

Now, I have to say, this is not the ideal plan. If you are serious about attacking deficits, if you are serious about funding security at home and abroad, this is not the most elaborate, the most generous Medicare prescription drug plan Democrats might offer or this Congress might pass. But it is an attempt to juggle competing priorities. It is an attempt to start a modest Medicare prescription drug plan that, over time, as our country regains peace and prosperity, we can truly fund at the level our seniors deserve.

Another important difference between the Democratic and Republican budget alternatives is homeland security. The Democratic alternative provides 34 billion additional dollars above and beyond the Republican budget alternative for homeland security; $10 billion of that is to the States. In the last couple of days, the Secretary of Homeland Security, Tom Ridge, has ordered Governors throughout the country to go on a heightened state of alert. Security is not free. This will cost money.

Virtually every State in this country, including Florida, is struggling because of the economy, because of deficits in their own budgets. The Federal Government needs to step in as a partner and help provide security. The Federal Government, in my judgment, has been derelict in its duty in not stepping up to the plate and doing this sooner.

This Congress recently missed another opportunity to provide funding for first responders, for equipment and training for police and fire. We cannot make the same mistake again on the eve of war. The Democratic budget alternative provides $34 billion additional above and beyond the Republican budget alternative. This is something Democrats and Republicans should agree on. This is something that every citizen in this country expects.

Finally, let me make two other points. One is that the Democratic budget alternative proposes to bring the country back into a balanced Federal budget by 2010. Deficits do matter. They affect interest rates in the long term. They have a lot to do with the ability of our country to plan for the future, the retirement of the baby-boomers, to keep Social Security and Medicare solvent.

Now, if the Democratic budget alternative sounds too good to be true, it is because there are some difficult choices there. Let me close by mentioning a couple of the difficult choices.

The Democratic budget alternative revisits President Bush's last tax cut,

which was based on an assumption the economy was going to be growing at a dramatically positive rate, and that we would be enjoying peace and prosperity for years to come.

Well, we know, painfully so, that is not the case. What the Democratic budget alternative does is to freeze the Bush tax cut, President Bush's tax cut, with respect to the highest income earners, in order to generate revenue to pay for homeland security, to pay for the cost of the war in Iraq, to pay for what this country is going to have to do after we successfully disarm Saddam Hussein. These are the priorities of the country. This is what is expected of us.

The other way that the Democratic budget alternative funds security, funds a meaningful prescription drug benefit and achieves a balanced budget by 2010 is to eliminate the repeal of the estate tax. It would say instead what Democrats and Republicans should have agreed upon a long time ago, as proposed by the gentleman from North Dakota (Mr. POMEROY): We will establish immediately a $6 million credit from the estate tax for couples, $3 million per individual, that will result in 98 to 99 percent of American citizens avoiding the estate tax.

The effect of that is, again, to generate the revenue that allows us to keep this country secure and strong and back to a balanced budget so that we can achieve what we have been challenged to face tonight, to support our men and women abroad, to keep our promise to our veterans, and this next generation of veterans serving our country so bravely, and serve our people and get our economy back to the strength it deserves so we can be strong not just abroad, but at home as well.

Mr. Speaker, I thank the gentlewoman for yielding me time.

Ms. HOOLEY. Mr. Speaker, I yield to the gentlewoman from California (Mrs. DAVIS).

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

Mrs. DAVIS of California. Mr. Speaker, I am here today because I am deeply concerned about the devastating impact the President's budget could have on working families across this country, particularly at a time when our Nation stands at the very brink of war.

The cuts that are proposed in this budget stand to hurt the very families whose loved ones are overseas preparing to fight this war. Last weekend I had an opportunity to meet with a number of military families whose husbands, whose brothers, sisters and wives are courageously serving our Nation in Afghanistan and the Middle East. They shared with me their thoughts and fears while their loved ones were deployed so many miles away from home.

In addition to expressing the uncertainties that they face, they are also concerned about their children's future. That is why education is a major concern to them. They know that the quality of their children's education is dependent upon some significant Federal support.

Mr. Speaker, the President's budget proposal seeks to cut education funding by more than $10 billion in the next year alone. In my home State of California, where the State budget deficit is expected to exceed $25 billion in 2004, as many as 30,000 teachers, counselors, nurses and administrators are already receiving notices to leave their posts in our children's schools. School districts are slashing a number of positions, and the President's budget provides no direct Federal aid to States to help with this great concern that we have.

At a time when we are sending more servicemen and women to Iraq each day, the very least we can do for them is to ensure that their children are receiving the very best services we can offer, but this budget is failing to meet this promise. While these same families are expressing their concerns as their loved ones are being sent abroad indefinitely to potentially face the perils of war, the very least of their concerns are costly tax cuts.

Mr. Speaker, we have larger priorities at hand. While we are still attempting to assess the costs of the war, our focus should remain on providing for our Nation's military, their families and our national security. It is simply irresponsible to neglect these priorities in favor of sweeping tax cuts, tax cuts that largely fail to benefit the brave men and women we are sending overseas at this very moment.

We understand that at a time of war we may, in fact, face large deficits, but we should not make them greater by supporting a tax package that has at its very heart helping those that at this time need it the least. This is simply the wrong message to be sending not only to working families, but to military families carrying out their commitment to America.

Ms. HOOLEY of Oregon. Mr. Speaker, reclaiming my time, again, the Democratic budget is a fiscally responsible budget that does not cut funds for veterans, that stimulates the economy, that makes sure that our children can go to college, have after-school programs, and the Republican budget does not do that.

GOING FROM BAD TO WORSE ON THE BUDGET RESOLUTION

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I would like to talk further about the budget. Much has been said, and I will not go over it, that this budget, as we now have our thoughts and prayers with our troops overseas, does not even include any mention of the war, of the cost of the war. It does not include funding for first responders adequately. It does not adequately fund education and special education. It would force cuts to VA benefits.

But let me just address two matters that I think really should be underscored that are failings in this budget. One has to do with Medicare.

I have heard Members on both sides of the aisle speak passionately about the need for prescription medicine coverage, yet the majority's budget resolution contains only $28 billion in new spending, when the lowest estimates for this kind of funding are about $400 billion. In other words, if this is going to happen, it would pull money not out of thin air, but it would pull money out of Medicare, other Medicare programs and out of Medicaid spending. That will not work.

In the area of research and development, our investment in science, research and development is a necessary investment to provide the growth in productivity that is required, that is really postulated for this budget resolution. That growth will not come unless we invest in research and development.

NIH funding, which was previously on a doubling path, the majority seems to think little of the achievements of the NIH researchers in hemophilia, muscular dystrophy, Alzheimer's and all of these other areas. Their budget reduces appropriated health programs by almost 5 percent in 2004.

With the looming war in Iraq, with the continued instability in the Middle East, with the threat of global climate change, you would think we would be increasing our funding for research in carbon reduction in fuels, but the funding for the Department of Energy's Office of Science remains flat. So, these are major shortcomings in the budget.

I see my friend from New York on his feet, and I would be pleased to yield to the gentleman.

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

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding, and let me thank the gentleman from the other side for accommodating us.

Mr. Speaker, I supported tax cuts in 2001. That was before 9/11. That was before our war on terrorism. That was before a potential war in Iraq. That was before we had new homeland needs. But today the world is different. We have new challenges. We have to make sure that our budgets keep pace with those challenges and are responsible in adapting to those challenges.

We cannot send young people into an unfunded battle in Iraq tonight and slash their veterans benefits when they come home tomorrow by $15 billion. We cannot offer the deepest tax cuts to the very richest and balance budgets on the backs of those who are fighting on our fronts.

I represent some constituents who would benefit greatly by a tax cut at the top brackets. I cannot think of a single one who would come up to me at

a Support Our Troops rally or a reservist center and say, ''Congressman, I will take my $90,000 tax cut now, and I don't care if veterans have to stand in longer lines, have shortages of beds or can't get into VA hospitals tomorrow.''

We all want to engage in shared sacrifice. We are at a critical time in our Nation's history. Our first obligation has to be to our seniors and those fighting for our freedom in Iraq and other dangerous places in the world. We cannot cut their beds, their budgets; we cannot balance tax cuts on their backs.

So I am hopeful that the Members of this body on both sides of the aisle will review these budgets and get back to the real priorities of America, taking care of our senior citizens, taking care of our veterans, making sure that we are meeting our obligations to them, taking care of our children, and making sure that their future is not laced with deficits and that we are not balancing budgets on their backs as well.

□ 1900

FINDING SOLUTIONS FOR REDUCING DEBT

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, tonight I would like to follow up the previous Special Order by starting out with some comments on the budget, on spending, on the tremendous deficit that we are leaving to our kids. Then also, I want to, on this eve of the war, finish up with some concerns that I have with such countries as France and Germany and Russia, I think putting our kids at a little greater risk. But first let me react to some of the comments that we have been listening to, that we need to increase spending on some of these important items.

Let me start with the tax cut. When the gentleman from Maryland (Mr. BARTLETT) and I first came to this Congress in 1993, one of the first events was a Democratically controlled House and Senate; and with a new Democrat President, we increased taxes more than taxes have ever been increased in the history of this country. The tax cuts that are being suggested now do not commence to negate that huge tax increase that we had in 1993. But let me talk about trying to attract more voters by suggesting that Congress should spend more money.

For a moment, look at what has happened over the last 10 years of spending history. This is how much we have been increasing spending. As my colleagues can see, fairly level, and it started to go up more and more in 1995, 1996, and 1997, and started taking off in 1998. Discretionary spending of the United States has increased an average of 6.3 percent each year since 1996 and 7.7 percent each year since budget balance was reached in 1998, showing a tremendous increase in the growth of government. And one can just project, if we continue to spend two and three and sometimes four times the rate of inflation, then government takes over; and instead of empowering people in the United States, instead of empowering businesses to encourage them to expand and develop and offer better and more jobs, government has been at the feeding trough to use more of those dollars by increasing taxes across the country.

How do we deal with a situation where we have made our taxes so progressive that the lower-paying 50 percent of income tax payers in this country only pay 1 percent of the total income tax revenues. So we can see, it is easy to suggest that any tax cut is a tax cut for the rich, since the upper 50 percent pay 99 percent. In fact, the upper 10 percent pay almost 84 percent of the total income taxes. So we have put more and more taxes on higher incomes to discourage that kind of effort, and we have put more and more taxes on business. Really, business taxes are a tax that that business, in order to survive, has got to pass on to consumers in the fashion of increased prices for their particular product. So the increased price we pay for any product we buy, part of that is really a hidden tax, because you pay it to business to pay their tax, and they have to charge a price that is going to allow them to survive.

Mr. Speaker, the gentleman from Maryland (Mr. BARTLETT) and I have been trying to convince Congress on both sides ever since we have been here of the unfairness of the increased spending that has resulted in increased borrowing that is going to end up leaving our kids a mortgage. I am a farmer. The gentleman from Maryland (Mr. BARTLETT) is a farmer, plus a scientist; and in the farming community, you try to pay off some of that mortgage so that your kids will have a better chance. Well, right now, we are sort of pretending that our problems today are so great that somehow it justifies going into the huge debt that we are going to leave our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, for the next few moments I would like to continue to direct attention to the spending curve that the gentleman from Michigan (Mr. SMITH) was just talking about. If we look at that curve, we will see that it goes up ever and ever steeper. Now, the gentleman from Michigan (Mr. SMITH) talked about a pretty steady 7.5 percent increase.

Now, one would think with a steady increase that we ought to have a curve that is going up at the same rate, but it does not do that. This is a phenomenon called the ''exponential curve.'' Every time we have an interest rate like this or a growth rate like that, the curve will go up ever steeper and steeper. Now, it is obvious when we look at that curve, it cannot continue because pretty soon it will go right through the ceiling. So it is obvious that sooner or later, and I hope sooner for the sake of our children and our grandchildren, that we have to bring our spending into line so that this curve does not continue to keep going up and up and up and soak up more and more of our gross domestic product.

Now, I would like to for a few moments turn our attention to another curve, another set of curves, and these curves are just some detail-building on the curve that the gentleman showed us. What we have here are three curves. One of them is the gross Federal debt. Now, that is the total amount of money which the Federal Government owes, and we will note a line here in the middle, and that is where we are now. We will notice that that goes through this debt line at about $6.4 trillion. That is the amount of money we owe.

Now, as a matter of fact, we owe more than that now, but that is the amount of money that we owed on the 20th of last month. This debt keeps growing and growing; and right now the Treasury Department is having to move monies around so that they can pay their obligations, because we have already exceeded our debt limit ceiling. So we need to pass a budget resolution soon, because buried in that is a mechanism which will automatically increase the debt limit ceiling to whatever monies the budget would have us spend for the next year.

We will notice that all of the expenditures beyond our current date are extrapolations. They are just guesses of what we are going to be spending in the future. But everything to the left of that are the monies that we have spent, and so those are real numbers.

Now, this gross Federal debt, which more often is referred to as the national debt, that debt is made up of two subparts. One of those is called the debt held by the public, and that is sometimes referred to simply as the public debt or sometimes it is the Wall Street debt. Now, that is the debt that the Federal Government owes because it has bought securities and bonds; and because it has sold these securities and bonds and so forth, it has gotten money from those. But that is not the only debt that we owe, because we owe another debt which we see started out fairly low and has now been increasing more and more; and this also, as we see, is an exponential kind of a curve, and we will understand why in a moment. This is a debt held by government accounts, it says here. A simpler way to understand that debt is that that is the trust fund surplus debt. That is the debt we owe to trust funds which have accumulated surpluses.

Now, how do we have trust funds that are accumulating surpluses? That is because we are taking monies from the paychecks of people and putting it in trust for them, presumably putting it

in trust for them, so that the money will be there later on when they need it and they are retired, like Social Security, like Medicare, like civil service retirement, like railroad retirement. There are about 50-some of these trust funds, and this year we will have about $191 billion surpluses in these trust funds.

Now, more than three-fourths of all of that surplus is in the Social Security trust fund, and it is good there is such a big surplus there, because during the retirement of the baby boomers, we are going to run enormous deficits in Social Security if we do not do something to fix that problem. But that is a discussion for another evening.

Mr. SMITH of Michigan. Mr. Speaker, on the definition of surplus, we say the trust funds have surplus; but actually, what they have is IOUs, so when programs like Medicare become insolvent or have less money coming in than enough to pay promised benefits in 2012, or when the money coming in from Social Security taxes is less than what is adequate to pay promised benefits for Social Security in 2017, all we have when we go to that box is a bunch of IOUs.

So what is government going to do to pay back those IOUs? They are going to increase taxes again, or they are going to cut benefits, or they are going to probably, most likely, increase borrowing again. So they go again and bid up the available money and borrow that money to pay back to make sure we pay Social Security benefits. But even then, by the mid-2030s, the trust funds are going to be gone and the insolvency of many of these programs is going to be devastating in terms of the burden that it puts on our kids.

Mr. BARTLETT of Maryland. Mr. Speaker, that is exactly right. And that is why these are shown as debt. Because although there are surpluses in the trust funds, as the gentleman from Michigan (Mr. SMITH) points out, there are no monies in the trust funds. Because we have a computer in Washington which, when we take some money from your paycheck, presumably put in trust for you, it only momentarily goes in trust for you, and then we almost immediately take that money out; and in its place we put a nonnegotiable bond in there. It is a nonnegotiable security; that is, we cannot negotiate it. It is only a security that can be redeemed by the Federal Government. When the time comes to redeem that, as the gentleman from Michigan points out, our children are then going to have to either increase taxes to get the money or borrow the money and pass that debt on to their children. I hope they do not do that, because I am ashamed that we are passing this debt on to our children.

As we can see, in a few years, in a few years, the debt owed to these trust funds is going to exceed the debt that we owe to what we generally call the Wall Street debt or the public debt.

Now, for about 4 or 5 years, Washington is telling us that we had surpluses and we were balancing the budget. But I want my colleagues to take a look at this gross Federal debt, or the national debt, and notice there never was a moment in time when that debt went down. It kind of flattened out here, we notice; and now it has really picked up the last couple of years. But there never was a time when it went down.

Now, the budget that was balanced is what Washington calls the ''unified budget.'' That is all the money that comes into Washington and all of the money that Washington checks out. But about 10 percent of the money that comes into Washington is money that they have taken from our citizens, presumably to put in trust for our citizens, but instead of putting it in trust for our citizens, we print IOUs and put that in what should be the trust fund, and then we spend that money. So that now it accumulates a debt here.

Now, for every dollar that we took out of the trust fund debt to pay down the public debt, and that is when they say we had a surplus and the debt was going down, that debt did go down. We can see it here.

Mr. SMITH of Michigan. But maybe an analogy, sort of like using one credit card to pay off another credit card. So we borrow money from the trust funds to pay down the public debt, and then a lot of politicians in Washington brag that we are paying down the public debt of the United States, and with muscle-flexing and suggesting that we are going to put the Social Security money in a lockbox, and that lockbox was again nothing but IOUs where the government took the money and used it for a couple of years to pay down the debt or the Wall Street debt or the debt held by the public. That kind of hoodwinking I think has brought about a lot of suspicion of the American people with their Congress and with the White House and with Washington.

Again, if we look at the tremendous growth, how fast we have increased spending of the Federal Government, if we simply went back to where we were 7 years ago, we would have a huge surplus on both the Social Security as well as the extra money coming in from taxes.

So it is a situation I think where we have to ask ourselves the question, Do we want to reduce the debt that we are leaving to our kids? Do we want to do that by increasing taxes? And that is what the Democrat substitute proposal for the budget does; they increase taxes.

□ 1915

They say, we will go along with the tax breaks for the lower-income; which, as I mentioned before, does not represent very much of the tax revenue coming into the government. But they say, we are not going to go along with the legislation that we passed 2 years ago that gives tax breaks across the board. In effect, it encourages savings, encourages investment, encourages businesses to expand.

So we have to end up making that decision: Are we going to borrow money to pay our way, or are we going to increase taxes to pay our way? I suggest that there are a lot of expenditures of government, and, in fact, this budget, the budget that the Committee on the Budget turned out, says, let us look for waste and fraud and abuse, and figure that we are going to put the responsibility on the different departments of government to seek out that waste and fraud and abuse.

Already we have identified more than enough to accommodate that 1 percent; to say, look, across the board we are at least going to have a 1 percent reduction in this time of war, so we can adequately make sure that we can adequately fund the military budget, the homeland defense budget. Those have been increased at the President's request, suggestion, in both of those areas. Where we have cut back is in other areas.

If we are in a time of war, is it not reasonable to start prioritizing our spending, especially since that kind of traditional increased spending as if there is no problem, do more for this group, more for that group, do more for the old, do more for the young, have midnight basketball games so kids do not get in trouble, that is the kind of spending rampage that we have been on.

What I am suggesting and what the gentleman from Maryland is suggesting is that that kind of spending that ends up having a deficit, let me define my definition for deficit, deficit is the annual overspending. Debt is when you take that annual overspending and add it up to the debt that we have for our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. The gentleman mentioned lockboxes, Mr. Speaker. It might be wise to spend a few moments talking about lockboxes. We have not heard lockboxes mentioned in the last several months. That is because we now have no surpluses.

In terms of the national debt, we never had any surpluses. We had surpluses in terms of the unified budget; but when the unified budget was balanced, the national debt was still going up almost $200 billion a year. That is because it was about $200 billion a year of trust fund monies that we were taking and spending.

What were the lockboxes? They were talked about a whole lot and were very popular. What were they, and what did they do?

The first lockbox was the Social Security lockbox. What that legislation said was that if there is a surplus in Social Security, and of course there is a surplus, and will be for 10 or 12 years in Social Security, if there is a surplus in Social Security, we cannot use that for ordinary spending; we have to use it

to pay down the debt. The only debt we could pay down with that is this public debt, so what they did was to take the monies out of the trust fund and to pay down the public debt, but for every $1 of public debt they paid down, they incurred another $1 of trust fund debt. Notice what is happening to these curves. As this one went down, that is the public debt we are paying down, the trust fund debt went up, so the net effect on the debt was zero.

There was another smaller trust fund that was included in the lockbox, and that is the Medicare Trust Fund. We did the same thing with that. But there were 40 or 50 other trust funds that we did not have a lockbox for. They did not amount to a whole lot, but we happily took them and spent them. When we did that, of course, even though we were advertising a balanced budget on the unified budget, the total debt that we owed, the national debt, here called the gross Federal debt, kept going up and up. Obviously, we should not continue to do this forever.

By the way, the gentleman from Michigan (Mr. SMITH) mentioned spending. The question is always asked, if we spend more money for this group or more money on that program, will it help more people? Of course, the answer is always, yes. If we spend more money, it will help more people. But I would submit, Mr. Speaker, that that is the wrong question. The question that needs to be asked is, will spending more money on that program help more people than if we left that money in the private sector?

Money left in the private sector also helps people because it creates capital for creating new businesses and new jobs. In those, government revenues will grow. The question we really need to be asking, whenever there is a suggestion that we increase a current program, is will increasing that program do people more good than saving that money and leaving it in the private sector, where it will create jobs for people who will then have an increased standard of living and who will pay more income tax, and Federal revenues will go up, and our economy will grow?

But we never in this Chamber ask the right question. The question we always ask is, will more money help more people? Of course it will.

Mr. SMITH of Michigan. Mr. Speaker, when we say leave it in the private sector, we say leave it in the pockets of the individuals that earned it. Do not have the kind of taxes on businesses that put our businesses at a competitive disadvantage to businesses that they are competing with in other countries.

That is what we do. Right now we are charging our businesses about 18 percent more tax than the businesses in the other G–7 countries, in the other industrialized countries. So when we talk about this, the tax changes that the President is suggesting that are incorporated in this budget, what can we do to strengthen the economy? What can we do to encourage our businesses to invest and expand and have more and better jobs in this country?

The other tax cuts, some of the other tax cuts, potential tax cuts, maybe should not be considered now; but let us at least look at the kind of tax incentives that can encourage savings and investment and business expansion.

Mr. BARTLETT of Maryland. The gentleman mentioned business taxes, and the fact that businesses really pass that tax on. I would just like to concentrate on that for a moment.

In a very real sense, we cannot tax a business, because that simply becomes part of the cost of doing business. If the business is going to remain in business, if that company is going to remain in business, they have to pass that tax on or they cannot remain in business.

I would like to make the argument, which I think is pretty hard to refute, that business taxes are probably the most regressive tax we have. I know my liberal friends are very fond of business tax, and they would like to increase it. I am not sure they have thought through what happens when we increase business taxes.

Whenever we tax a business, it has to add the cost of that to their goods and services. Now, there is no deduction for that and no exemption from it. So the poorest of the poor, when they go to buy the services or the products of a business, have to pay more for that service or product because we tax the business.

There is another way in which business taxes are very regressive and hurt people, particularly poor people. Another thing that happens when we tax a business is that we have increased their cost of doing business; so now that makes them less competitive with firms in other countries, and they may, in fact, not be able to continue doing business here, and those jobs may end up somewhere else in the world, more and more frequently on the Pacific Rim.

There are some companies today, I say to the gentleman from Maryland (Mr. SMITH), that are doing something that we call inversions. A company, when they look at the regulations that govern them here, when they look at the taxes here, they say, we just cannot stay in business in this climate, so what we are going to do is move our headquarters overseas to some island offshore or something like that. We are going to continue our major operations here, but for tax and regulatory purposes, we are going to move our headquarters overseas somewhere.

The question we are asking ourselves is, how can we punish those people? I think that is exactly the wrong question. The question we ought to be asking is, why are they leaving this country? What is there about our regulatory climate, what is there about our tax structure that is forcing these businesses out of this country? What do we need to do so that we not only keep these businesses in this country, but we attract other businesses to this country?

Do Members not think that that is the question we really ought to be asking here?

Mr. SMITH of Michigan. Mr. Speaker, a survey was done of the businesses that inverted or moved to another country to pay their lower tax rate, but kept their jobs and their operations in this country.

A survey was taken, and for over half of those companies it was a question of going out of business or reducing their expenses and taxes, one of the expenses, reducing that expense by roughly 17 percent that we overcharge compared to other countries, by moving their business overseas.

So absolutely, rather than the suggestion in the Democratic budget that says let us punish those businesses that move their headquarters and their taxing location outside of this country by saying that they cannot move or else they lose a lot of the benefits, and we are not going to buy from them for military use, and we are going to punish them anyway in some form of additional taxes to discourage their moving out of this country, absolutely, I say to the gentleman from Maryland, the right decision is that we cannot put our businesses at a competitive disadvantage because of our gluttony to somehow raise more money through what I call a hidden tax, a very regressive tax like the gentleman suggests; because it says that the lower-income person that has to buy these goods has to pay a tax on this, they have to pay the extra price on the goods to accommodate the high taxes that we have imposed on business.

It is not so, what is the good word, identifiable because it is not so obvious that people are paying another tax to government when they buy this product. It is sort of a hidden tax that has been politically an advantage, some people felt; but in the long run it discourages business expansion, and it discourages the kind of economy and the kind of strongest economy in the world that we have developed in our first 226 years.

So absolutely, it is the wrong way to go. What we should be doing is making our taxes competitive with the taxes in other States, and part of the way to do that is to hold the line on spending.

When the complaint is of cutting spending by 1 percent, the previous special order suggested that Republicans are suggesting a 1 percent cut, no cut. What it is is a slowdown in the increase in spending. Where I come from down on the farm, a cut is when there is less money spent one year than the previous year.

Mr. BARTLETT of Maryland. Mr. Speaker, I say to the gentleman from Maryland (Mr. SMITH), there is a good analogy of this that helps us understand what these Washington cuts are that are really not cuts. We have big

cuts, and we are spending more money next year than we did last year in spite of a cut.

It is like our son comes to us, and we are giving him a $5 allowance, and he comes and says, I would like a $10 allowance. But we say, gee, $10 is a little much. Suppose we give you a $7 allowance? So now the son goes and tells his friend, I just had my allowance cut by $3. Obviously the allowance went from $5 up to $7, it went up $2; but relative to his anticipation, his hope that it might be $10, he now has a cut.

Most of Washington's cuts are those kinds of cuts. They are simply a cut in the increase in the rate of spending, increased rate of spending; they are not a cut, or are almost never. Just look at these curves. Almost never do we spend less money this year than we spent last year. So be careful that people define very carefully what they mean by a cut in Washington, because most of the time it is, in fact, not a cut; it is simply not as big a rate of increase as they would like to have seen.

All of the cuts we hear my friends on the other side of the aisle talking about in our budget are that kind of cut. As far as I know, essentially nothing is being cut in the budget. We hope to cut the rate of increase of some of these programs, but as far as I know, essentially nothing is being cut.

Mr. SMITH of Michigan. Mr. Speaker, let us discuss just a little what the imposition that this increased debt that we are leaving our future generations has on the potential of those generations to have a strong economy or strong incomes that they are going to be able to keep and raise their families with.

Right now, servicing the debt, and $6.4 trillion is our current debt, servicing that debt costs approximately $300 billion a year; but interest rates are at record lows right now. So with interest rates, with the government able to borrow some of their money for about 2.7 percent, what if that interest rate goes up? What about when we have economic recovery and there is a greater demand for money?

That interest rate, the interest rate in the early 1980s, was as high as 17 percent; so what if that $300 billion a year paying interest were to quadruple because of higher interest rates in the future? It would devastate those people that are trying to service that huge debt in the next generation, or years from now.

□ 1930

Mr. SMITH of Michigan. Also, sometime, someplace, somehow future Congresses are going to start thinking that we have to operate more like a family, more like a business, that someplace down the roads we have to start paying this debt down. Nobody is talking about paying the debt down. All they are talking about is, well, maybe the debt right now is manageable and let us put the war on terrorism or whatever happens in Iraq aside for a moment because we are funding that. And I think it is reasonable to borrow more money to fund that effort to make sure our military are well equipped to the best possible degree because we certainly are going to support them. And I think everybody is going to do that. But for the other spending, let us not do business as usual. Let us start looking at the budget. Let us start prioritizing. Let us start slowing down the growth of a lot of government and let us start paying attention to a lot of fraud and abuse.

In fact, just in Medicare alone, GAO estimates that in 1 year there is probably fraud that amounts to between $17 and $19 billion. And when you are spending somebody else's money, it is easy to waste some of that money. So there needs to be the kind of pressure that this body can put on the different bureaucracies to make them look very carefully at how they are spending that money and reduce some of that wasteful spending.

Mr. BARTLETT of Maryland. Mr. Speaker, the gentleman talked about hidden taxes. I would like to talk about the biggest hidden tax of all that most Americans are completely oblivious to.

Now, if this year is like last year, May 10 will be a very special day because that will be Tax Freedom Day. That will be the day that you have finished working so that you can pay all of our Federal, State and local taxes. Now that is quite some weeks for now so you are still working to pay Federal, State and local taxes and will until May 10 of this year, if this year is like last year.

But on May 11 you are not going to be able to work for your family to buy that car or pay something on that tuition bill or to make a mortgage payments on your home. Because for the next 7 weeks, right at 7 weeks, until July 6 every American is going to have to work to pay the cruelest tax of all. It is a hidden tax which is a very regressive tax, and by the way it is a favorite tax of my liberal friends. But it is the most regressive tax we have because the poorest of the poor have to pay that tax. They get no exemption from the tax. They can get no deductions from it. And what is this tax, this big hidden tax that consumes 7 weeks of the working time of every American? It is unfunded Federal mandates.

Now, that is a mouthful, but let us point out what that is. It is a law which we passed in this Congress and, boy, are we fond of doing this, a law which we pass in this Congress which causes a State government or a county government or a city government or a business or your family to spend money that we do not provide. In other words, it is a mandate; but we do not provide any money for the mandate so it is an unfunded Federal mandate. And that consumes the working time of every American for just about 7 weeks out of the year. So you spend about 52 percent of your time working to support government.

If you are in the average community, go out on the street and walk around and look at every fourth person you meet. They work for government at some level.

Now, I would submit that the average American thinks that is just too much government. And if we could resurrect our Founding Fathers and have them see where we are, they would be appalled at what we have done to the dream that they had for this country, where they envisioned a very limited Federal Government, where essentially all of the rights and all of the responsibilities stayed with the citizens in the private sector. We have come an awful long way from that dream, have we not?

Mr. SMITH of Michigan. Mr. Speaker, let me give you an example of a young married couple that have two kids in my congressional district in Michigan. And they were working. They had one job. The husband decided to provide more money for the family. He would go and take at least a half shift for a second job. And so he was upset when he learned that not only does he have to pay more taxes, but under our Tax Code, he was shoved for that additional earning into a higher tax bracket. So we said, look, if you are going to go out and get a second job and earn more money, not only do you have to pay the taxes, the increased taxes because of increased earnings, but we are going to tax you more because you went out and worked harder to do that second job to have more income.

So we have a Tax Code that in many ways discourages what made this country great. And, of course, our Founding Fathers, I agree with the gentleman, would be very upset because we have a Constitution and a Bill of Rights that in effect says that those people that use that learning, that try, that work hard, that save and invest end up better off than those that do not.

And what we have been slipping into for the last 30 years is a more socialistic system where we say if you go out and work harder and save and invest and try and earn more money, we are going to really hit you with high taxes because after all, we need to give, we need to give some of this money to people that need it more, that maybe are unlucky, that maybe did not save and invest. But our system has worked very well not because we are stronger or smarter. It is because we have had the incentive that those that really make the effort and try and invest and save and learn and use that education end off better than those that do not.

And so to change that around and say, look, if you are going to be successful, we are going to punish you more, is not what is going to keep us the strongest economy in the world.

Mr. BARTLETT of Maryland. Mr. Speaker, I would like to come back for a moment to look a little bit more at these trust fund surpluses and the debt that we owe to this trust fund which is

big and going to get bigger and bigger. One observation is that our law requires that we accumulate this. I say that because the only thing we can do with these surpluses by law is to invest them in nonnegotiable U.S. securities.

I cannot imagine money laying around Washington that we do not spend. And so if it is invested in nonnegotiable U.S. securities, we are going to spend it.

Now, the fact that we took monies from these trust funds and paid down for a little while some of the publicly held debt, that did a very nice thing for us today. What it did was to reduce our demand for money in the marketplace, and that competition dropped interest rates probably by about 2 percent. So the home you are buying costs you less per month. The car you are buying costs you less per month. The tuition payments you are making for the debt for your children or your debt if you went to school and you are now paying it off that cost you have is less.

But the flip side of that is that what we are accumulating here is the largest intergenerational debt transfer in the history of the world. And although we are living better today because we are taking these trust fund surpluses and spending them and, therefore, we are not borrowing as much in the marketplace, our kids and our grandkids are really going to have to pay for this. Because when it comes their time to run this government, we cannot run it on current revenues. So what we are doing is borrowing from their generation. When it comes their time to run the government, not only are they going to have to run the government on current revenues, but they are going to have to pay back all of the money that we borrowed from their generation.

Now, when I first ran for Congress 11 years ago, I promised I was going to conduct myself so that my kids and my grandkids would not come and spit on my grave because of what I had done to their country. I say to the gentleman, I am trying to do that; but I am not getting as much help here as I hoped I would get when I came here 11 years ago.

Mr. SMITH of Michigan. Because, Mr. Speaker, it is tempting for politicians to come up with more programs, to have more pork barrel projects because the news media puts them on the front page, the television covers them cutting the ribbon for the new jogging trail. So what has happened is you increase the probability that you are going to get reelected if you come up with new programs to help someone with their problems. And once you start spending, if you spend that money for a certain project or a certain arena for a couple of years, it almost becomes an entitlement because they develop the interest and they hire a lobbyist that starts saying, boy, we are really going to scold you if you decide not to continue our funding.

Mr. Speaker, I would like to thank the gentleman from Maryland (Mr. BARTLETT) for joining me tonight in this Special Order. And I would like to begin with some of my particular concerns on the war on Iraq and, of course, the 48 hours are up now; and that means in the next several days I presume there is going to be a more military aggressive insistence that Saddam Hussein gives up those weapons of mass destruction.

Let me start out by saying that Bonnie, my wife, and I will be remembering our troops every night in our prayers and I hope, Mr. Speaker, that everybody in America does the same. These are the best soldiers in the world. They are courageous defenders of our freedom and worthy representatives of the United States of America. I think it has been regrettable that some countries that have traditionally been U.S. allies have not been able to join our coalition to rid Saddam Hussein of devastating weapons.

I am told that I cannot swear on the floor of the House, but I am as mad as Hades about France's actions. France, which the U.S. liberated in World War II, has gone as far as to use its veto to block any U.N. approval of any resolution to support the coalition that would have insisted on the disarmament of Iraq. I think this is unfortunate because they have resulted in putting our young men and women soldiers at risk. We should not be under any illusion that France is acting on its, at least in part, narrow self-interest. The French want a prominent role on the world stage, and they seem to delight in cutting down the United States. But even more importantly, they want to defend some of their profitable extensive contracts and trade relationships that they have bargained with Saddam Hussein and Iraq.

Let me list a few of those interests. According to the CIA World Fact Book, France produces over 22.5 percent of Iraq's imports. In 2001 France became Iraq's largest European trading partner. Roughly 60 French companies do an estimated $1.5 billion in trade with Bagdad annually under the U.N. Oil for Food Program. France's largest oil company, Total Fina Elf, has negotiated a deal to develop one of the world's major oil fields, the Majnoon field, in western Iraq. The Majnoon field purportedly contains up to 30 billion barrels of oil.

Total Fina Elf also negotiated a deal for future oil explorations in Iraq's Nahr Umar field. Both the Majnoon and Nahr Umar fields are estimated to contain as much as 25 percent of Iraq's oil reserves. France's Alcatel Company, a major telecom firm, is negotiating a $76 million contract to rehabilitate Iraq's telephone system.

From 1981 to the year 2001, according to the Stockholm International Peace Research Institute, France was responsible for over 13 percent of Iraq's arms imports. Selling military equipment and arms to Iraq. And this is not a new position for France. It has consistently blocked attempts to bring Iraq into account since the Gulf War in 1991.

□ 1945

In 1995, when there was an effort in the U.N. Security Council finding Saddam in material breach, France opposed it. In 1996, when there was an effort to pass a resolution condemning Saddam Hussein for his slaughter of the Kurds, France opposed it. In 1997, when there was an effort to block travel by Saddam's intelligence and military officials, France opposed it. In 1998, France announced that Iraq was free of all weapons of mass destruction, something that nobody believed and France does not believe today. In 1999, of course, they opposed the creation of UNMOVIC, the existing inspection regime that they now want to say is where we should go and just let them keep going and keep looking. Of course last month, they vowed to veto any resolution authorizing force to disarm Iraq of weapons of mass destruction.

Let me say again. France's opposition to the U.N. resolution sought by the President and Prime Minister Tony Blair appears to have been based somewhat on business considerations. Saddam Hussein, no matter what he has done to his own people, no matter what threat he poses to his neighbors or the world, has been someone France has been able to do business with, and France has certainly not been the only country. But one of our dignitaries suggested that France has sort of acted over the last dozen of so years like the legal counsel for Saddam Hussein. So I am concerned about their motivation.

Here again, there are other countries. We can see that both Germany and Russia have extensive dealings with Iraq that call their motives into question, as far as I am concerned. In Germany's case, direct trade between Germany and Iraq amounts to about $350 million every year, and another $1 billion is reportedly sold through third parties.

It has recently been reported that Saddam Hussein has ordered Iraqi domestic businesses to show preference to German companies as a reward for Germany's firm positive stand in rejecting the launching of a military attack against Iraq. It was also reported that over 101 German companies were present at the Baghdad annual exposition. During the 35th annual Baghdad International Fair just 4 months ago, a German company signed a contract for $80 million for 5,000 cars and spare parts. In 2002, DaimlerChrysler was awarded over $13 million in contracts for German trucks and also spare parts.

German officials are investigating a German corporation accused of illegally channeling weapons to Iraq via Jordan. The equipment in question is used for boring the barrels of large cannons and is allegedly intended for Saddam Hussein's Al Fao supercannon project.

Russia, too, has extensive dealings with Iraq that it wants to protect. For example, according to the CIA World Factbook, Russia controls roughly 5.8

percent of Iraq's annual imports. Under the U.N. oil for food program, Russia's total trade with Iraq was somewhere between $530 million and $1 billion for the 6 months ending in December 2001. According to the Russian Ambassador to Iraq, Vladimir Titorenko, new contracts worth another $200 million under the U.N. oil for food program are to be signed over in the next 3 months. Soviet-era debt, someplace between $7- and $9-billion was generated by arms sales to Iraq during the 1980 to 1988 Iran-Iraq war. Our soldiers will have to face many of these weapons on the battlefield in the coming days.

Russia's LUKoil negotiated a $4 billion, 23-year contract in 1997 to rehabilitate the 15-billion-barrel West Qurna field in southern Iraq. Work on the oilfield was expected to commence upon cancellation of U.N. sanctions on Iraq. The deal is currently on hold, obviously.

In October of 2001, Salvneft, a Russian-Belarus company, negotiated a $52 million service contract to drill at the Tuba field in southern Iraq. In April of 2001, a Russian company received a service contract to drill in the Saddam, Kirkuk, and Bai Hassan fields to rehabilitate the fields and reduce water incursion.

A future $40 billion Iraqi-Russian economic agreement, reportedly signed in 2002, would allow for extensive oil exploration opportunities throughout western Iraq. The proposal calls for 67 new projects over a 10-year time frame to explore and further develop fields in southern Iraq and the Western Desert, including the Suba, Luhais and the West Qurna and Rumaila projects. Additional projects added to the deal include second phase construction of a pipeline running from southern to northern Iraq, and extensive drilling and gas projects. Work on these projects would commence on cancellation of sanctions.

One Russian company over the past few years has signed contracts worth $18 million to repair gas stations in Iraq. The former Soviet Union was the premier supplier of Iraqi arms. From 1981 to 2001, Russia supplied Iraq with 50 percent of its arms.

It is important, Mr. Speaker, for us to understand who our friends are in the world and how they make their decisions. The negotiations over this U.N. resolution has been, I think, a certain lesson on this topic. It is one that will not easily or not quickly, I hope, be forgotten. The challenges ahead of us are great, but make no mistake. If Saddam Hussein were to succeed in developing, in keeping these weapons of mass destruction, the chemical weapons, the biologic catastrophes that could come from the biological weapons and certainly his efforts over the years to try to develop atomic weapons, if that were to be let go undone, it would be tremendously difficult to deal with the other problems that the free world is facing in Iran, in North Korea, let alone the rogue nations with tyrants as dictators that might decide, well, Iraq got away with it and they were able to do great bargaining for themselves. If we develop these weapons, then we are going to be in better shape to threaten, coerce, blackmail, if you will, for better deals for our country.

The challenge ahead is great. The technology and the ability of many of these countries to develop these kind of devastating weapons is now available, almost on the Internet. So I think today it is so important that we strongly support our military troops, that we thank the 30 to 50 countries that have decided, according to Secretary Powell, to support us in this effort. Maybe this is the beginning, but the United States has taken on this responsibility. In past actions through World War I, World War II, all of our wars, the Korean War, even Vietnam, they were all for good humanitarian reasons, to make sure that freedom and justice and the rights of people were helped throughout the world. That is part of what we are going to be going after in the next few days, to try to make sure that not only these weapons in Iraq are disassembled and destroyed, but that we keep other countries from making the same effort and having the same threat on our liberty and freedom.

REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SMITH of Michigan) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I am pleased to transmit herewith a report prepared by my Administration on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2001. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

CONGRESSIONAL DUTIES IN CONNECTION WITH CIRCUMSTANCES SURROUNDING IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I am delighted to come to the floor this evening to continue a very important discussion that deals with our duties and responsibilities in connection with the circumstances surrounding Iraq.

I begin with a review of the duties that we have. First I pray for our soldiers whose roles are pretty well defined, and I would like to point out that we in the Congress have a duty as well, a constitutional duty, that requires under the Constitution that we alone can decide war. And why is that? Because of Article I, section 8. It is important for us to note that this duty is nondelegable. We cannot pass it off. We cannot turn it back. It can only be done by us. So the question of who decides becomes very important.

On this past Monday, the President of the United States said he has decided that he will begin this war, and that this is a matter that did not require him to consult with Congress, that there was no debate in the Congress, that it was a matter that he has been telling us in innumerable ways on innumerable occasions precisely what he was going to do, and that Saddam Hussein's time has run out, and there are no more options, and that negotiations are futile, and that the United Nations can do what they want, that everybody has to decide in the family of nations, that they are either with us or against us, and that it does not matter whether the inspection regime required by the United Nations has been concluded or not.

□ 2000

It does not matter whether the United Nations approves or disapproves. He has decided what he will do, and he is going to do it. Why war? And why now? A war could be justified only if our national security is threatened. There has not been the case made that that is the present circumstance, and it of course has to be weighed very carefully against the death and the destruction not only that we put in our own military's path but also the innocent people in another country who will likely be killed in the course of this activity. And of course none of this has been debated by the Congress. But what about the tactics of the 43rd President of the United States? He has repeated on more than one occasion that war is the last resort. ''My last resort,'' when everyone knows that it is his first objective. How can he be declaring that war is the last resort, that he has exhausted negotiation when actually he is short-circuiting the whole process?

And then we have the coalition, the fig leaf coalition of the willing, which bears not that much analysis. Who they are and why they are there speaks generally for itself. And then of course we have the central issue here that there is no compelling evidence that Iraq is a current threat to our national security. None. We waited for the grainy photos of the Secretary of State when he was supposed to have conclusively made the case. We have waited for the Secretary of Defense when he was supposed to have conclusively made the case. We waited for the President and the Vice President when they were supposed to have made the case. It was the Vice President who first announced early on that Iraq had nuclear

weapons. That turned out to be incorrect; and we have heard little of it, nothing of it since.

Then we had the assertion again by the Vice President of the United States that Iraq was linked to the tragedy of the attack on the United States on September 11. That has never been proven, and little has been made of that so far. Then of course it was asserted that our intelligence linked Iraq to al Qaeda. Not so. That has not happened either. So what we have here is a sorry compendium of misunderstandings, inaccuracies, and public relations gambits that do not do the most democratic government and the most powerful Nation on the planet any credit.

So the President has determined to unleash the dogs of war. He has set the clock ticking toward an unprecedented barrage of destruction that will be dropped upon a nation of 20 million people, a city of 6 million people within that country; and all of us who hold human life precious should watch this clock run down as we lurch toward an unnecessary war that the President seems determined to start.

So for the brave young men and women of our armed services who will be headed into harm's way, we offer them our support and our prayers for their safe return. But we also must be faithful to our duty, a duty entrusted exclusively to the Congress by our Founding Fathers, and that is the solemn duty to decide after thorough consideration amongst us whether or not this great Nation should go to war. So the Constitution's framers emphatically entrusted the decision to the Congress alone. This is not some recently determined statement of constitutional theory. Our Founding Fathers, as we review the debates that they had in writing the Constitution, were adamant that the executive not play a role, although once war began, the executive is the Commander in Chief to implement that decision. And those men who came together over 215 years ago were so intent on excluding the President that they rejected an offer to share the power to declare war between the Congress and the executive. This was debated centuries ago.

I know that some believe that the Congress properly authorized a war against Iraq and a resolution in October, but that is not the case. We have not yet performed our duty. We did enact a resolution that generally authorized the President to fight terrorism and to seek enforcement of previous United Nations resolutions on Iraq, but in reality that resolution bucked the constitutionality conferred on the Congress to the President. It let the President decide to choose when and where and against whom to start a war. It dodged the decision and sought to delegate an authority that is exclusively our own, an authority that cannot be delegated.

The administration argues that legal precedence allowed the Congress to provide an authorization of war that is functionally equivalent to the now rarely used formal declaration of war, which entirely misses the point. It is not the format which is at issue. It is who really decides, and it was clear at that time in the beginning from the congressional debate, from the executive branch statements and from the resolution itself that the diplomatic route would be pursued first by going through the U.N., subsequently in response to a broad national consensus the United States spearheaded with the passage of resolution 1441 that imposed a new inspection regime. The United Nations Security Council went along with the United States, and it was clear last fall that the decision of whether to declare war was being put off at that time unmistakably, and in the months since then it has become increasingly clear that the decision to go to war would turn on two crucial assessments. First, there would be an assessment of the results of the inspection team that was there checking to find out if there were weapons that could be destructive weapons or chemical or biological materials that would be in violation of the terms that had been imposed upon Iraq.

But the second assessment and the ultimate judgment would require weighing the implications of the inspection results and other information about what threat Iraq poses to the United States against the full costs of casualties, of the economic costs, the diplomatic fallout, and the increased terrorism in this country that could result from going to war. Clearly these are not exclusive military judgments reserved for a Commander in Chief. They are precisely the kind of complex national policy judgments that the Founding Fathers conferred very deliberately on the Congress in matters of war and peace. Yet in the present circumstances, the Congress has abdicated any role in that all-important decision. Rather, the entire world has been riveted on whether the American President would decide to declare war. The President has boldly told journalists and Members of Congress alike that it is his decision and his decision alone. This is a perversion of the Constitution of the United States. Even if one argues that the Congress properly exercises constitutional duties and that the President thereby has all the necessary authority to start a war, a fundamental question yet remains: Why war now? The Bush war would have disastrous far-ranging consequences for many years for every American citizen. War is about devastation, destruction, and death.

The American people are not blood thirsty. We want war only if our country is in imminent danger. Otherwise, a war is human and economic costs and moral costs are too great. It robs us of resources urgently needed by America's working families and those less fortunate. Even in terms of national security, an all out war would rob Americans of hundreds of billions of dollars needed for the first line of defense, which is homeland security on which we have made far too little progress since the tragedy of September 11.

As the President repeats his unverified mantra of threats to national security, cities across this land are laying off police officers, firemen, emergency medical service teams, and the so-called first responders to any new terrorist because this administration's ''first response'' to empty city treasuries have been, briefly, too bad, tough. This is not a partisan spat nor a Washington insiders policy dispute.

The citizens' crusade to stop an immoral war in Iraq has been nothing less than a noble struggle for our Nation's soul, and that struggle has not been particularly successful nor has it been a failure, because all across the Nation, there have been demonstrations, marches, protests, rallies; and I can tell you in the great State of Michigan there have only in the last few days been demonstrations in Detroit and Lansing and Grand Rapids and Traverse City and many other places throughout our state.

So we must commit ourselves to this cause with the same dedication and urgency in which many of us, most of us, strove to stop segregation and to end the Vietnam War, another conflict which finally brought our government to its senses. For the President to repeatedly insist that for him war is a last resort is contradicted by his actions which reveal that war is really his first choice and has been all along. His attempts to make it palatable by badgering, bullying, coercing, bribing countries into a so-called coalition of the willing has been a mere fig leaf transparent to the entire world.

The President has failed to present compelling evidence that Iraq currently is a threat to our national security. One rationale after another has been disproved. The President, the Vice President, the Secretary of Defense have presented a kaleidoscope of ever-changing rationale as they tried to nimbly stay one jump ahead of various truth squads at the United Nations, among skeptical Members of Congress, and among the media and even of its own intelligence agencies, particularly the Central Intelligence Agency.

□ 2015

Americans have borne the burden of war when attacked or actually threatened with great resilience, but America cannot in good conscience start a war so costly in blood and life and treasure on the basis of circumstantial evidence and speculation that sometime in the unspecified future, Iraq may present an actual threat to the United States, because this war against Iraq is a war that will devastate a country of 20 million or 26 million and cause damages that will take decades to undo; a war that will see many American casualties and that could fracture our fragile

economy; a war that will destabilize the Middle East and likely beyond; a war that will swell the ranks of terrorist recruits all over the world; a war that will weaken our fight against terrorism at home and abroad, and that will cost hundreds of billions of dollars desperately needed for programs in all of our cities; a war that will set a terrible precedent in a world of growing numbers of nuclear states, where atomic energy supplies can be bought at bazaars, on street corners, in a number of places in the world already, in a world where nations are anxious to get their hands on these ingredients and will do anything to get them, and some, I regret to report, are succeeding.

For any country to launch a preventive war against opponents that are deemed a possible future threat is an improper exercise of the power of war in this country, a war not really wanted by the American people and not desired by many of our military commanders on a personal level, and certainly not among our allies.

Worst of all, it is a war that, as the Central Intelligence Agency admits, will only make it more likely that Saddam Hussein will unleash whatever unconventional weapons he does have against our troops, against Israel and our other allies.

There is no evidence that Saddam seeks to commit suicide. We deterred him from using weapons of mass destruction during Desert Storm. If he faces destruction, however, he may well seek to play the role of Sampson.

Last weekend, several of the Nation's leading papers seemed to suddenly discover all of these grave costs of war in Iraq, in which article after article noted with an air of sudden reportorial discovery that the war would drastically increase the likelihood of Saddam Hussein's use of weapons of mass destruction, and that it would almost certainly escalate dramatically the number of terrorist attacks that could happen in the United States; that many U.S. military commanders fear that it would undermine the real war against terrorism; that there could be extensive casualties among innocent Iraqi civilians who have a great deal of reason to be opposed to Saddam Hussein; and that even following a quick military victory against Saddam Hussein, if there is to be one, we would be mired in an Iraqi quicksand of tribal feuds and guerrilla warfare for decades.

It would have been far more useful to their readers if the media had discovered the costly side of this war ledger months earlier. Instead, like the administration, most of the media focused overwhelmingly over the question of whether it would be preferable to prevent Saddam's use of armaments and remove his regime, as if there were no competing costs on the other side of this ledger that had to be carefully balanced and weighed in deciding whether this would be an action that would result in a net plus for America.

Now, there may be still time for the President to avoid starting the wrong war in the wrong place at the wrong time. There is still time, admittedly precious little, for the American people to speak out against the war that so few of them seem to support.

We should remember the warning of General Anthony Zinni, the Marine Commandant and head of the U.S. Central Command which guards the Middle East, who reminded us that military commanders know the full horrors of war and hesitate to plunge ahead until the national interest is clearly at stake.

On the other hand, the Marine Commandant warned, those who have never worn a uniform or have never seen combat are often the quickest to beat the drums of war.

So the administration will condemn whoever utters them as unpatriotic and partisan, just as the Johnson White House condemned Martin Luther King, Jr.'s questioning of Vietnam. The Bush team has already spread that slander in order to stop the erosion of support for the war as the public learns the truth. Are the military veterans and retired generals opposed to this war unpatriotic? Are the families of those who were killed on September 11 in New York and Pennsylvania who oppose this war partisan? That is outrageous.

I know many of my colleagues in good faith have been convinced that Iraq is a threat to us now, and they are entitled to their opinion, but they have been the target of a Niagara of propaganda, especially with the Vice President of the United States' early insistence that Saddam was involved in the September 11 attacks on the United States, and that he had nuclear weapons, both of these assertions which have long been disavowed by our Intelligence Community, our spy organizations. There have been many other assertions and premises used by the administration to market their product, in the revealing phrase of the White House Chief of Staff, which have crumbled under close scrutiny in the White House Chief of Staff's revealing terms.

So, I would ask this administration to reconsider their view and to ask themselves, almost the entire world is against this war. Every major city in the United States has gone on record in opposition to this war. The United States Conference of Catholic Bishops, the Pope, almost every major Protestant denomination, the American labor movement, the AFL–CIO, 13 million people, the National Association for the Advancement of Colored People have all gone on record against this war.

Leading retired U.S. military commanders, such as General Zinni, General Schwarzkopf in his original views, have voiced opposition to this war. Numerous Active Duty generals have told reporters off the record of their serious concerns about a war at this time against Iraq. General Scowcroft, an adviser to President George Herbert Walker Bush's administration, is against the war. And all of this opposition has arisen before the war has started, before a war has started, an unprecedented phenomenon in our history.

In view of these facts then, it is perhaps just possible that there is something amiss with the President's premises, something unconnected in his logic and his rejection of further efforts to resolve these issues peacefully.

I urge my colleagues to reflect upon these circumstances and join me in continuing to press and urge and pray for our President to find another way to follow the path of peace, for blessed are the peacemakers.

I now yield to the distinguished gentleman from Illinois (Mr. DAVIS), my friend and colleague for many years, even before he became a Member of Congress.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman very much. I want to thank the gentleman from Michigan (Mr. CONYERS) for his steadfastness and his many years of understanding, that sometimes you might have to give out, but you never give up, and even though it appears to be the last minute, right down to the wire, here the gentleman is continuing to speak to the American people, trying to help all of us see the light and see the way. So I thank the gentleman for this opportunity to join with him.

On October 10, 2002, this Congress voted to give the President of the United States broad powers, which he has taken as the right to engage in a unilateral first strike war against Iraq without a clearly demonstrated and imminent threat of attack on the United States.

Our oath of office as Members of Congress, our constitutional charge, the mandate laid upon us by the people does not permit us to delegate the responsibility of engaging the awesome military power of the United States. Our oath of office does not permit us to delegate our responsibilities in placing our fighting men and women on the field of battle.

The Constitution places the power to declare war squarely and solely in the Congress. This issue arises far above partisan politics. President Abraham Lincoln put our Congressional responsibility this way: ''We cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down in honor or dishonor to the last generation.''

I opposed that resolution, and I remain opposed, because after all of the information I have seen, and after all I have heard, neither I nor a majority of the residents of my district, the Seventh Congressional District of Illinois, are convinced that the war is our only, our best and our most immediate option. We are not convinced that every diplomatic action has been exhausted.

In fact, diplomacy and inspections have not exhausted their ultimate potential.

I was not convinced, and I am still not convinced, that the resolution would properly guide us to act cooperatively and legally, through the United Nations, with the agreement and the involvement of the international community.

□ 2030

In fact, it has led us to pursue risky unilateral actions in defiance of international law and the United Nations charter.

As the American people are attempting to make sense of this complex situation, it is the duty of the Congress to ask some hard questions. One, is there an immediate threat to the United States? In my judgment, the answer is no. We have not received evidence of immediate danger. We have not received evidence that Iraq has the means to attack the United States, and we have not received evidence that the danger is greater today than it was last year.

Will the use of military force against Iraq reduce or prevent the spread or use of weapons of mass destruction? All evidence is that Iraq does not possess nuclear weapons today. The use of chemical or biological weapons or the passage of such weapons to terrorist groups would be nothing less than suicide for the current Iraqi leadership.

So I join with the gentleman from Michigan (Mr. CONYERS) in hoping that some way there is some resolve, that there is some sliver of chance, some reaction that might lead us out of this chaos and confusion into a peaceful existence, with the United States of America leading the way.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his thoughtfulness, and I am deeply grateful for him joining me tonight.

It is a pleasure to recognize the gentleman from New York (Mr. OWENS), who has worked in civil rights activity, and is a man of great thoughtfulness and perseverance.

Mr. OWENS. Mr. Speaker, I thank the gentleman for presiding over this Special Order on Iraq. We cannot say too much at this point about America's preemptive strike on Iraq. We are the greatest Nation that ever existed in the history of the world. We are the richest; we are the most powerful. We are also the most democratic. Never have so many people enjoyed democracy and never have so many people had an opportunity to help make decisions. We should not throw away our opportunity to help make this decision. We should not assume that it is all over, that decisions have been made and we cannot stop the war at this point. Or if the war should occur in the next few hours or the next few days, we should not assume that we cannot shorten it, we cannot do the best for our soldiers. The best thing to do for our soldiers is to bring them home safely, to get them out of conflict's way.

War is hell. War is hell. The question is, Do we have to plunge into hell in order to accomplish what we are seeking to accomplish?

I want to go back to where I was last fall when we considered the President's resolution, the resolution authorizing the President to go to war. At that time I said that I still believe that every step we take toward a war with Iraq makes us less safe, not more safe. If we get involved and obsessed with Iraq, it is a bottomless pit that makes us very much more unsafe than we were before. I said at that time that there are other situations existing in the world which we should spend more time on and take care of before we plunge into any kind of long-range involvement with Iraq, and I still say the same is true.

Most people have not bothered to observe the situation closely in Pakistan. Pakistan seems to be off the radar completely, off the agenda. Nobody talks about it. Pakistan is a nation of 180 million people. Most of them are Muslims. Officially they are a Muslim nation. They see themselves as a Muslim nation. Pakistan already has the nuclear bomb. They have nuclear weapons because we trained the Pakistani scientists in this country, and they now have nuclear weapons. They have nuclear weapons. A Muslim nation has nuclear weapons.

Pakistan has always had a positive relationship with the United States, but it has always been a strained relationship. Pakistan has always supported us throughout the entire Cold War. Pakistan supported us against the Russians in Afghanistan. There is a long history of Pakistan's loyalty to the United States.

Yet Pakistan has always been treated like a second-class partner. Pakistan has never been rewarded for its loyalty. When the Cold War was over, we just pulled out. The Afghanistan war, they were very much involved with, and after it was over, we just picked up and left. We have never given them the kind of aid economically that we should have provided. We have never offered them a Marshall Plan. We, at this point in history, even after al Qaeda, and Pakistan has now played a major role in al Qaeda, in the pursuit of al Qaeda and Osama bin Laden, they played a major role. But after all the negotiations of how we are going to go about doing this and what the alliance means, we have ended up giving Pakistan only $300 million in aid. Mr. Speaker, $300 million in aid to Pakistan, already fighting with us against Osama bin Laden, on the border of Afghanistan. On the border of Afghanistan, in great harm, harm's way, $300 million.

Now we are discussing packages with Turkey for $6 billion, just to let our troops pass through to go to Iraq. What do we think the Pakistanis think when they look at that?

Here is why I ask the question: What do you think the Pakistanis think? Because the other element in this is that this Pakistani Government, who has always been our friend, also teeters on the edge of dissolution. The Pakistani situation is very, very tenuous. They have a President who took over as a result of a military coup, but this same President was part of the military that helped us in Afghanistan. This same President presides over a Pakistani secret service intelligence agency. They are the ones who created the Taliban. They created the Taliban as a way of conquering Afghanistan. They are very close to the Taliban.

So when we had the invasion of Afghanistan, there are elements of Pakistan's military and Pakistan's intelligence services who are very unhappy about it, and as Muslims also do not like the idea of Muslims fighting Muslims.

The present government is very anxious. The President and the top officials go nowhere except with top security. They are very aware of the fact that they are in jeopardy. In other words, a coup could take place at any moment in Pakistan, and if a coup takes place and the right wing there, the people who are pro-Osama bin Laden, win, they have the nuclear bomb. Osama will have the nuclear bomb. It is just that dangerous.

Why do I talk about a coup on the eve of attacking Iraq? Because there is a fanatical element involved here which will be triggered at the invasion of Iraq all over the Muslim world. There is a fanatical element which the Pakistani Government may just not be able to contend with. We are in danger of having a coup take place and the nuclear bomb is the worst thing that could happen, nuclear bombs put in position where Osama bin Laden could get them.

I need not talk about the other critical situation in the world: North Korea. That is on the radar screen. People talk about that. We have in North Korea a dictator less known than Saddam Hussein. We do not even understand the machinations of this man's mind and the whole regime that he has managed to perpetuate all of these years. But people who have been there say that the population is fanatically behind him.

This is a population extremely intelligent; they have mastered modern technology. They have some of the best rockets in the world, and they are going on to fashion their own nuclear industry. They already have, they say, a couple of bombs and they are going to start making more. At the same time, they cannot grow enough food to feed their people. What kinds of monsters are these, and what kind of situation do we have when they have the technological confidence that great, but they are not able to feed the people? The people in charge do not even care enough to feed the people, obviously. That is another problem.

So we have those dangers in the world; and as we get obsessed with Iraq

and involved with Iraq, which is a problem, Saddam Hussein is a monster. Saddam Hussein is a threat to world order. But Saddam Hussein is not an immediate threat to the United States and probably not an immediate threat to any country because he knows if he attacks anyone in surrounding Arab countries, he will have the whole world come down on him again.

Saddam Hussein, I have no case to make for. The man finances suicide bombers in Palestine. The big question is why? Why did we let him continue to sell oil all over the world so that he could finance suicide bombers in Palestine and continue building his arms industry? Where does he get the money from to continue to build up his arms industry? We talk about weapons of mass destruction. He has a big army. He has a big army with conventional weapons. The money to buy those weapons and to keep that army going has continued to flow, despite the fact that we have sanctions imposed on Iraq. Why did we not enforce the sanctions? What oil barons did we bow to to let them make a profit by not enforcing the sanctions? Why did we not, if France was trafficking in oil and Russia was trafficking, why did we not come down on our partners and really make the sanctions stick? They have never stuck. He has continued to get money, as much as he wants, to do what he wants to do.

People say, well, we are responsible for a lot of deaths of children in Iraq. No. That is ridiculous. He has the money. He does not spend it for the nutrition of children; he does not spend it for medicine. He spends it on building up his weapons and his power, and we let him do it. Why do we have to go all the way to a war, mobilizing 300,000 American troops, when we did not bother to do what we could have done on the seas? We control the sea lanes. We could have stopped the oil from being sold and transmitted all over the world, but we did not.

So there are other solutions, is what I am saying. Why do we have to go into hell? War is hell. If we did not know it was hell, if our imaginations did not tell us that, reading the ''Iliad'' did not tell us, when I read the ''Iliad,'' I wondered why Homer went to such great lengths to talk about how the spear was plunged in mightily and the blood flowed like rivers, and he had four great descriptions of the horror of war. Well, in those days they did not have any movies. He did not have Spielberg to show him in ''Saving Private Ryan.'' If he did not read the ''Iliad,'' if he did not read any books and could not have his imagination telling him why war is hell, if he did not believe in Nikita Kruschev and the defense of Stalingrad, the facts of history, then we can see Steven Spielberg. It is right there on the screen in ''Saving Private Ryan.''

Our boys landed at Normandy under those conditions. It is not an exaggeration. War is hell. War was hell in a lot of other places too. War was hell at Gettysburg. The greatest number of American lives lost was lost in the Civil War; 600,000, at Gettysburg, thousands died, the largest number came from New York. But they died; they died for a noble cause at Gettysburg. They died for a noble cause at Normandy. They died for a noble cause in Korea. The North Koreans came brutally down on the South Koreans, and within days they wiped out the city of Seoul, a brutal onslaught. Millions of people died in the Korean War before the United States forces got involved.

Our armed services and our military might can be put to good use. I like to think of myself as a follower of Martin Luther King. But I am not a pacifist in the sense that I think military force is necessary. There are times that military force is necessary. Thank God we have force. Our professional soldiers are the best in the world. My brother was a sergeant major in the Army for 20, 26 years. We have a very professional group of people now that run the military, and they are determined to do a good job for our Nation. We cannot fault them for the decisions that were made.

The problem is at the top; and the White House and the decision-making here in Washington, it is all wrong and dangerously off course. We are at a pivotal moment in American history, and instead of going one way with our military might and our wealth and our power, and our influence, most people in the world love us. I do not believe Americans are hated by ordinary people anywhere in large numbers.

□ 2045

They think we are as close to heaven as we are ever going to get here on Earth in terms of our way of life, including the political institutions, as well as the supermarkets and the joys of life and so forth.

I would like to conclude with a little piece of poetry here. We have faced difficulties for a long time, since the beginning of the country, of various kinds. We have always overcome those difficulties. Thank God we had Thomas Jefferson to help us get off to a good start. Thank God we had Abraham Lincoln at a critical moment when our Nation was about to fall apart. There is no reason to believe that we will not overcome this time.

All of the Members of Congress and all of our constituents should not throw up our hands in despair and give up. Let us keep talking. Let us keep trying to arouse the public to understand that this is a war we do not need. By going into preemptive war, using our wealth and military power in the wrong way, we are going to set history against us. Instead of guiding history and being the force and civilization which carries mankind to wonders never dreamed of before, we will become the enemy, with a lot of people sniping at our heels, and finally they will put together coalitions and bring down the great American empire. Rome fell because it was arrogant and thought that it could go on and on and throwing its power around.

We have at various times in history been delivered from this kind of arrogance and these kinds of mistakes. There was a man who wrote to Thomas Jefferson early in the history of the country who saw what happened when the Constitution was generated. It was always a miracle to him how these savage men, these people in the wilderness, could come together and put together a magnificent government.

His neighbor wrote and said that there was an angel over America. There is an angel in the whirlwind taking care of us. I think we ought to remember that as we go into this difficult, very bloody war. War is bloody, it is not what Good Morning America has been showing us. War is hell. We would like the angels in the whirlwind to come out and deliver us.

Some time ago, I think it was February 28, I do not remember what the occasion was, I wrote Angel in the Whirlwind, actually as a result of a quote that President Bush had made in his inaugural address.

Angel in the Whirlwind,
Tell us where you've been;
Come steer us through the storm,
Halt all this public sin.

Angel in the Whirlwind
Blow forth great truths;
All men are born equal,
Some men die great;
Profiles in courage
Never come too late.

Lincoln in the whirlwind
Blew powerful justice down;
Emancipation Proclamation,
Magnificent declaration,
Plain ordinary sensation,
Transformed to noble creation.

Sailors in the whirlwind
Forsake all ease,
Typhoons still lurk near,
Patriots must not fear.

Angel in the whirlwind,
Jefferson at your side,
Ships ashore at Normandy,
In every boat you ride,
Protect our future fate,
Martin King's posterity
Is waiting at the gate.

Angel in the whirlwind
Wrestle with the terror;
Tornado twisted greed;
Volcanoes belching
Ashes of indifference;
Human kind's highest hope
Strangling on a golden rope;
Merciful empire
That might've been,
Critically infected now
By the virus of public sin;
Giant graves reserved for midget men.

Merciful empire that might have been, or we could still be the merciful empire that saves civilization.

Angel in the whirlwind
Stay to save the brave and free,
Bring back judicial integrity,
Point us toward eternity,
Come steer us through new storms
Angel in the whirlwind.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from New York (Mr.

OWENS) for his powerful, intellectual, and passionate discourse. It has helped this discussion immeasurably.

I am pleased to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague on the Committee on the Judiciary in the House of Representatives. From the time she entered the Congress, the gentlewoman from Houston, Texas, has worked at my side on numerous issues and causes, a dear friend of mine.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan, the distinguished gentleman, for having the wisdom to be on the floor of the House in the absence of the acceptance by the leadership of the charge that should be taken up; that is, to be debating the question of war.

I think it should be noted, though everyone is aware of the continuing leadership that the gentleman has given to a myriad of issues fairly, evenhandedly, and seeking justice, that the gentleman rose to the floor at the time that the clock ticked off or ticked out for the threat or the admonishment or the instruction, direction, or directive that was given to Saddam Hussein to leave Iraq and Baghdad in 48 hours; and, of course, the Nation knows that that ended tonight at 8 p.m.

It is appropriate that we are on the floor, because we are filling in the gap of really what the Congress should be doing at this moment; that is, a somber, decided, and deliberative debate on the constitutional question of whether or not this Congress will declare war against Iraq.

Through the course of our interaction, we have pressed the issue of not whether one is for or against this war, but whether or not this Congress has the sole responsibility to declare war.

Frankly, Mr. Speaker, and, frankly, with respect to this debate, I do not believe we should be silenced on this issue. I will tell the gentleman why; because even as America is hovering and preparing for the worst, the Constitution is being shredded. It is being ignored, and it is being taken lightly, because it is clear that the Founding Fathers wrote this document to respect the three branches of government, to recognize that we are strong as a democracy if those three branches are interrelated.

The Constitution does enunciate that the President, whoever that is, is the Commander in Chief and can deploy troops. Many will suggest that a resolution debated in October 2002, satisfied the question. It did not, because it gave more power to the President than has ever been given to any President in the United States, Democratic or Republican, meaning that actions might be able to be perpetrated without coming back to the United States Congress.

Clearly, it is well known that if the Congress does not use its power, it does not give up its power. So going back to the Constitution, whether or not it takes us 6 hours or 24 hours, it is clear that this body could debate that question. It is not, as I said, a question of winning or losing, it is a question of the sanctity of process. A President cannot singly and should not singly take the Nation into war.

I would just use as an example, we are not a parliamentary form of government, but it is interesting that our strongest ally was quite willing to appear before the British Parliament just yesterday and engage in a very open debate on this question. Would it not appear that we could do the same?

Let me just say this, and I will yield to the distinguished gentleman. We have been characterized, those of us who have been persistent in our opposition, and frankly I believe we should remain here in these Chambers until someone recognizes the responsibilities for this Congress to debate this question. But those of us who have raised our voices have been categorized and pushed to the side.

I do not think the media understands democracy, because whenever they present the largeness of this issue, it is a singular drumbeat: We are on the way to war. I assume now after 8 p.m. they are announcing war. It is a shame on them. As they say, it is a mockery on all of our houses; because, frankly, the American people deserve better. They deserve to know the facts, and that there are lucid and intelligent perspectives on both sides of this question.

I am not asking the President to give up everything and to suggest that Saddam Hussein should be given flowers, but I am saying that war should be the last option. I believe there will be a third option. I am appreciative of the gentleman from Michigan (Mr. CONYERS) joining me on filing legislation that again restates the proposition that the Congress has the authority to declare war, and we have filed that bill today.

But we have options, and we will be discussing this in the context of reaching out: One, convene an international tribunal, war crimes tribunal, with the United Nations Security Council and indict Saddam Hussein and his party leaders, and try him for war crimes; two, leave 50,000 troops on the border and bring home at least 200,000 of our young men and women; a vigorous, strong 50,000-person coalition, troops that are in a coalition, vigorously allowing the U.N. inspections to go forward; humanitarian aid now. Reinvigorate the Mideast peace process, fight the war against terrorism, and restore the coalition. These are key elements that could be done.

I believe, Mr. Speaker, that we can do something more than stand in silence. Frightening, deadening silence is appalling for this body that had the likes of the great leaders that we have known that have gone on before us.

I thank the distinguished gentleman for his leadership on this issue. I am not sure if the distinguished gentleman wants to close, but I think that more action is warranted than this Congress seems to have decided to do or the courage to do.

I would think more of all of us that we want to have a debate, whether we vote up or down on the question. I have no interest in suggesting that the victory be mine, but only that the process be real and that we do not give up the duty of this Congress to debate the question of war.

Mr. CONYERS. Mr. Speaker, I want to thank my colleague on the Committee on the Judiciary, the gentlewoman from Texas (Ms. JACKSON-LEE), for her critical analysis of what we can do other than what we are about to do: that this person, Saddam Hussein, should be tried for crimes against humanity in the Hague court, the international criminal court, as Milosevic was and others; and that we could repair even at this late hour from a course that we think is disastrous. I thank the gentlewoman for joining me tonight.

THE CENTRAL ISSUE OF IRAQ

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I join my colleague this evening, the gentleman from Texas (Mr. BRADY). He and I for some time have wanted to get together and have a discussion on the House floor with our colleagues and discuss the central issue of Iraq.

As Members know, this evening is a very important point in time in our history. Tonight at 8 o'clock the what I would consider generous offer for Saddam Hussein to take his regime and liberate the country of Iraq expired. I would expect that at any hour from here on forward that the United States and its willing coalition, and I will present to my colleagues that this willing coalition actually today exceeds, exceeds the size of the coalition of the first Persian Gulf War.

This is not the United States acting alone, in contrary to some of the previous speakers that we have heard up here. Contrary to what they are saying, this is not the United States taking on the world; this is the United States and a large part of the free world taking on the horrible regimes of people like Saddam Hussein.

Contrary to what some of the previous speakers said about standing silent, it is the United States of America, it is the United Kingdom, it is the Spanish, it is the Italians, it is the Turks, it is the Netherlands, it is the Polish, it is the Hungarians, it is the Netherlands. I could go on through 45 of those names. These people are not standing silent. They are willing to stand up to a horrible monster, and they are willing to make sure that that horrible monster does not stand down the people of his own country, nor stand down the people of the world. For that, the United States and all of its allies deserve a great deal of credit.

Last night when I addressed this House, I talked about what I felt was patriotic action by citizens of this country and unpatriotic action. It is my feeling that it is certainly within the rights of our Constitution, it is something that people have fought and died for, the freedom of speech. While I disagreed with the likes of people like Martin Sheen, and George Clooney, and the Dixie Chicks, and Cheryl Crow and some of the people like that, although I disagreed with the brash, unjustified, unstudied, uneducated statements that they made, in my opinion, I am exercising my freedom of speech, and I did not take away from them the right to express those feelings.

□ 2100

I do not take away, although I find very hard to swallow, I do not take away from the right of anybody that wants to march in a peace protest or have a sign of protest. I do, however, find it somewhat ironic and somewhat sad that many of these people, including some of my colleagues on this very House floor, spend more time bashing our President who I think has done a remarkable job in the leadership understand a tremendous challenge, spend more time bashing the leadership of the country which has given them all of their privileges than they spend bashing the monster, the man who has killed more Muslims than anyone in the history of the world. That is ironic.

But then again these people, I think there are people that truly believe in this protest. And I think that they are within their rights, and I do not think they are unpatriotic because they march out there. But where they cross the line, where that line is crossed is when our troops engage and it is upon that moment of engagement that every person in this country that protested this, the George Clooneys, the Hollywood superstars, the Sheryl Crows, the Dixie Chicks, ought to drop those signs and ought to be in complete and unanimous support of our troops. And if you are not willing to support the troops of the United States of America, and I will state this again 50 times as I stated this last night and I will say it again now and I will say it till the day I die, if you are not willing to stand for the troops of the American forces, for those young men and women throughout the world that are standing on behalf of the security of this country and our allies, then you are unpatriotic and you have crossed that line. And there is a line between patriotism and being unpatriotic, and that line will be crossed within the next few hours if people like Martin Sheen or Sheryl Crow or George Clooney decide in their own manner, I will not support the troops of the United States of America.

How interesting I see the Oscars, the Academy Awards that are coming up. And by the way for people like Julia Roberts, some of these people that have taken positions, let me tell you, I think they are outstanding actors but, you know, you cannot be a master of all trades. And they certainly are not masters of foreign knowledge or foreign affairs. They ought to stick with acting. And I hear that some of these actors who are amongst the very privileged few of this country, take a look at Hollywood, these are amongst the very privileged few. They get money. They get limousines. They are welcomed at the Academy Awards with red carpet. They are treated. They are spoiled. Anything you want to take a look at. It is not to say they did not earn it. I am not saying they did not earn it. I am just saying they are a very privileged few; and, frankly, those privileges that are then bestowed upon them have been bestowed because they live in the greatest country in the history of the world.

Do you think in Iraq these people, George Clooney, could stand up and criticize the government? Do you think Martin Sheen, Martin Sheen would have been executed by Saddam Hussein a long time ago. Do you see any pictures in the Iraq paper of anybody protesting the policies of Saddam Hussein? Of course you do not.

How interesting that Saddam Hussein says he has free elections in Iraq and in the last election he did not have one ''no'' vote. Out of the millions of people in Iraq not one ''no'' vote. Now that ought to tell Martin Sheen something about a democracy. And those people that are going to stand up at the Academy Awards and think it is their God-given duty, not right, not right under the Constitution, but their God-given duty to stand up and not support the troops of the United States and criticize the country that has allowed them to have the privileges that very few in our society ever dream of having, and that is to go to the Academy Awards and get an award and they are going to criticize this country. I find that appalling. I find that so, so disappointing.

But on the other hand, there are a lot of people who do support the troops of the United States of America. I want to show you a commercial. It is titled ''Freedom,'' and I think it is very appropriate. I think it is very appropriate for what I am talking about right now, and that is appreciation of the history of this country, appreciation that the United States of America has done more good for more countries than any other country in the history of the world. This country gives by far more aid dollars than any other country in the world. This country has given more lives of its servicemen and servicepeople than any other country in the world in defense of other countries.

This country is not a conquering country. When the rest of the world gets in trouble, they come to the United States of America. They come to Great Britain. They come to the British and the Spanish. This alliance that we have put together to go in and cut the head off the snake is a coalition that has built respect, that has put the best example forward for the rest of the world. This country is a great country.

I had the privilege today of talking to some college students. What a great generation coming up. And I want to first have my colleague speak for a few moments, but after he speaks I want to go through some of the questions they asked me. They have got so much promise, and they were so proud of this country. And they were not necessarily prowar to be proud of this country. You do not have to be prowar.

I heard the preceding speaker up here talk about war. We should not have war. War is the last resort. Of course war is the last resort. Of course it is. But what recommendation do you have that is going to change things right now? You do not have it. You like to blah, blah, talk, talk, negotiate, negotiate, negotiate some of you people, but the fact is at some point in time somebody has got to have the courage to stand up and attack the cancer. You cannot play around with cancer. You cannot talk it to death. You need to get in. You need to diagnose it. You need to figure out what alternatives you have, but if the facts show up that you have no alternatives left, you better attack cancer. And it is the same thing with people like Saddam Hussein.

Imagine what this world would look like, just for a moment, even if you disagree with what I am saying this evening, tell me what this world would look like in 5 years if the United States stood down from Saddam Hussein. Tell me what the world would look like. Tell me what the world looks like today in Iraq. Tell me about the women in Iraq today. Tell me what privileges they have in that society. Compare it to the privileges given to the Hollywood celebrities at our Academy Awards, for example. Tell me about the health care in Iraq. Tell me about the criminal justice system where they put men through shredders, well, maybe women too. Tell me about the abuses in that. Tell me about the starvation in Iraq. There are a lot of comparisons we can make. And you can be very proud, very proud that we are all lucky enough by sake of birth, we are lucky enough to be citizens of the United States of America, but it comes with a price. We have got to be willing to stand up and defend this flag that stands behind us.

I want to refer over here to my poster to the right of what I said earlier. Freedom. Is it not funny, this is from the former Senator, U.S. Senator Fred Thompson. Freedom. ''It is the soldier, not the campus organizer who has given us the freedom to demonstrate.'' Look at that line. It is the soldier, not the campus organizer who has given us the freedom to demonstrate. It is the soldier not the reporter, not the reporter, it is the soldier, not the reporter who has given us the freedom of press. It is the soldier, not the poet who has given us the freedom of

speech. It is the soldier, not the poet who has given us the freedom of speech. It is the soldier who serves under the flag who defends the protesters' right to burn the flag. It is the soldier who stands under the flag and defends the flag that gives those protesters that right to burn the flag. Is it not time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free. Were it not for the brave, there would be no land of the free.

The Martin Sheens of this world, the George Clooneys, the Julia Robertses, the Dixie Chicks, the people that have come out, the Howard Deans of Vermont, people like that, it is time for you to put down those signs of protest. It is time for you to support the troops of the United States of America. And if you fail to support those troops, I mean now, I mean today, this time limit is gone. At any given moment this Nation will engage in a military conflict. And let me repeat it once before I yield to my good friend from the State of Texas. Failure to support the troops of the United States of America by a United States citizen is representative and by definition unpatriotic.

Now, you can call my office all you want. You can be as mad as you want at me; but the fact is I believe in my heart that patriotism is defined right here, allows the campus organizers because of the soldier to have the freedom to demonstrate. Allows the poet the right to freedom of speech. Allows the defenders of the protesters' rights. But once we cross this line, once we ask these 18-, 19-, 20-year-old young men and women to take a weapon and risk the loss of their life, and, mind you, these are voluntary forces over there. This is not the draft. These are voluntary forces, the best fighting force the world has ever known. Once we ask them to stand on our behalf and to put their lives in the line of fire, then, by God, in my opinion you are unpatriotic if you do not support those troops.

Now, I am very pleased this evening that I have a colleague of mine who wished to join me and we wanted to do this as a joint statement. So I am very happy to yield to the gentleman from the State of Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of the gentleman from Colorado (Mr. MCINNIS) on this issue and many other issues. He is a colleague of mine on the House Committee on Ways and Means. He plays a crucial role on a number of issues from tax reform to preserving Social Security and Medicare to trying and open up new markets around the world. But it is his, I think, vision on national security and this war on terrorism that prompted me to be here tonight. I appreciate him allowing me to be part of this program on an evening that I think history will mark as a very important next step in the war on terrorism.

Recently, I had the privilege of attending two rallies for America back in Texas, in my home region. The first one a couple of weeks ago was coordinated by KPRC radio in Houston. Two of the on-air commentators, Chris Baker and Pat Gray, put together a rally just on a week's notice, a mere week's notice, just basically invited the community to come together and support our troops and support this country. It was a remarkable rally. It was a cold and dreary day, not one that attracts a lot of people naturally; but yet in this plaza in downtown Houston there were between 8 and 10,000 Americans there to show their support for this President and support our troops or military men and women. And then last weekend in Woodland, Texas, where I live, not three blocks from where Cathy and I live with our two young boys, we had a rally for America as well. This one was organized by Dr. K.P. Reddy, who is an immigrant from India, a legal immigrant who came here with very little money in his pocket but a desire to live the American dream.

He organized this rally basically to remind America what a remarkable Nation we live in and what remarkable freedoms and blessings we possess. And both of these rallies were to me remarkable because they were just a grass roots outpouring of people who understand the importance of our security to our families and to our Nation.

I had a chance to talk to the groups at both of these rallies and here are the thoughts I shared with them: back home 1,200 miles from here in Washington, D.C., back home in College Station, Texas, is the George Bush Presidential Library Museum. Captured in these magnificent engraved letters high on the granite walls on the museum where each afternoon if you drive past, the beautiful Brazos Valley sun captures these words, and I think they are very appropriate to our time in our Nation. And the words say, ''Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand.''

As we stand today on the eve of liberating Iraq and striking another blow against international terrorism, thousands of our young men and women stand watch on foreign soil. Our soldiers are on patrol in Bosnia-Hersgovenia, Kosovo and Macedonia. They are hunting al Qaeda terrorists in Afghanistan and the Philippines. They are on patrols in the skies of Iraq and on the seas throughout the world. They are unloading the equipment near Turkey and training in the deserts of Kuwait. These patriots and their families are suffering hardships and making great sacrifices at this Nation's behest.

□ 2115

There is a good chance in the next few hours that we will ask even more of them. Another generation of Americans is standing where duty requires them to stand, and we are standing with them. For all our faults, America remains a good, good country. We did not deserve the attacks of September 11, nor the celebrations that followed in some parts of the world. And as happens in times of crisis, 9/11 brought out the best in America. We sensed a Nation turning back toward what is truly important, our faith, our families and our precious freedom. We saw it in the thousand flags flying, in overflowing hearts and in overflowing churches.

You may recall in his September 20 speech to the Nation, to the joint session of Congress, President Bush spoke for all of us then when he vowed that America would not rest until we had rooted out terrorism around the world. He said that countries harboring terrorists would be treated as terrorist nations themselves; that if you financed terrorists, if you trained terrorists, if you provided them safe harbor in your country, that you would be treated as a terrorist nation yourself. He cautioned wisely that the coming war would be a long one, to be measured in years rather than months.

As we have been reminded repeatedly by the recent al Qaeda attacks in Bali and Kenya, by the audiotape of bin Laden and his second in command predicting more terrorist attacks in America, as we have been reminded in the announcement that American intelligence have quietly thwarted more than 100 separate terrorist efforts, the question is not if America will be attacked again at home, but when and by whom. Instead of crashing airplanes into our downtown buildings, the terrorists of the future may well turn to dangerous chemical and biological weapons, suicide bombers, attempts to poison our air and water, disrupt our energy supply, our electronic commerce, and destroy our economy and the jobs that we and our neighbors rely upon. They will direct these weapons of terrible destruction toward America, because standing as the world's lone superpower also means standing as the world's biggest target. Despite what Hollywood and others are trying so desperately to sell to you, our homeland, our communities, our schools, our neighborhoods and millions of American lives remain at risk as we speak tonight.

We are going to fight this war on terrorism one way or another, either overseas at its source or here at home when it lands right on top of our neighborhoods. We choose overseas, at terrorism's source.

Personally I can tell you that casting a vote for war is the most difficult vote you ever cast. I have a younger brother Matt, who is a medic in the Army. He was deployed to Desert Storm a decade ago. Since then, he and his wife have added two young children to their family, Mattie and Caitland. He recently got word he is headed back to Turkey. Any time you cast a vote that will send your family to war, any time you cast a vote to send anyone's family, anyone's son or daughter, to a war they may not return from, you think hard

and you pray hard over it. Yet I know it was the right vote to cast, and Matt feels even more strongly than me.

I am certain because the first responsibility of our government is to defend American citizens. It is not the United Nations' responsibility, it is not France's nor Germany's. It is ours. The Afghanistan campaign was certainly the first step in the war on terrorism, but does anyone believe all terrorism begins and ends in Afghanistan? Does anyone believe there is only one terrorist, Osama bin Laden? Does anyone seriously believe Saddam Hussein has disarmed? Of course not.

By any measure, Saddam Hussein presents a grave threat to the safety, the security and the well-being of Americans here at home. Disarming Iraq and its support for state-sponsored terrorism is the next logical step to secure peace for our families and the world.

I served as a member of the House International Relations Committee for a number of years. Serving on that committee, it became clear to me that terrorism expands according to our willingness to tolerate it. Terrorism expands according to our willingness to accept it. For too long the world has turned a blind eye to terrorism. We have been afraid to confront it. Terrorism has grown strong because the actions of our world leaders never really matched their tough words.

That is over now. That all changed September 11. That all changed with President Bush as our Commander in Chief, and that all changed with a Nation that supports him. For the sake of our community and our security, we have to mean what we say. And for the sake of our children's future, we must follow through on our vow to end terrorism.

We know from experience that America's security at home depends upon our strength in the world. The value of our military to deter attacks and maintain peace depends in great measure on the value of our word. If the United Nations fails, and unfortunately they have as of tonight, although President Bush has bent over backwards to reach a diplomatic solution, the bottom line is you cannot give someone a backbone. They have to have one themselves. I think the exercise with the United Nations in which we tried so hard proves what global security experts have long suspected. Many nations in the world want terrorism to end, but few want the responsibility of actually doing it. If Saddam Hussein chooses to continue to arm himself and harbor terrorists, then America must act. Words alone are not enough. And when we send U.S. troops overseas, it must be to win and to return home as planned.

President George Washington said, there is nothing so likely to produce peace as to be well prepared to meet an enemy. We know the enemy. We know the difficulty. We know the duty, and we know the strength of America's military men and women, and we will not undermine them here at home. Despite what some believe, as Americans our rush is not for war, it is for peace, a secure peace, so that back in Texas where I live and in communities across America, when our families leave home each morning, they return home safely to us that night. That is not too much to ask. As the United States has shown in every world war, we are fighting not just for our Nation, but for a world free of fear, free from the horrors that fill our television screens too often, free from the threat of weapons of mass destruction which grow and grow each day, free from all that terrorism spawns.

If you think war is expensive, try living in terror. How much would we pay, how much would we give to have prevented the attacks of 9/11? To those who protest the war, I respectfully ask, was September 11 not enough? Was not September 11 enough to convince you this is not a game? This is not politics as usual. This is not Vietnam. This is like no other war. This is the prospect of a holocaust on our shores, on America's shores, among our communities, killing our families, injuring our neighbors, destroying our way of life for generations to come. And all the made-for-media protests, all the petitions and the slick TV ads in the world will not stop the next terrorists from attacking innocent Americans here on our shores again.

By standing tall, by standing firm, I believe President Bush has demonstrated what we all know in our hearts. Leadership is never easy, nor is it always popular, which is why we are so grateful for the nations and the leaders who stand with us, more than 30 of them, the third largest coalition in a century, people who are willing to say to international terrorism, enough. Enough. I am convinced, looking back, if more had stood with us, if France and Germany had put world security ahead of their shortsighted political ambitions, that we may well have disarmed Iraq and exiled Saddam Hussein without a shot being fired. Sadly, we will never know.

In some ways, I do not really worry about those in the free world who question the war. I worry about those in the world of terrorism who question the resolve of the American people. As you may recall, within days after the attacks of September 11, many around the world predicted that America would not have the heart nor the attention span nor the fortitude to mean what we say. They will soon learn they are wrong. No one knows better than Americans that if a nation values anything more than freedom, it will lose its freedom. The irony of it is that if it is comfort or it is money that it values more, it will lose that, too.

I have great faith in the American people. We will stand with President Bush. We will stand with our American military. We will stand where duty requires us to stand.

On the issue of defending America and disarming Saddam Hussein, people often ask, why Iraq and why now? To that, let me yield back to my colleague from Colorado, who speaks so eloquently about the need to defend our America and to secure peace throughout the world.

Mr. MCINNIS. Mr. Speaker, I hope the gentleman can stay around here for a while. I think this is a very good discussion. I want to point out something. I was moved by his remarks. On Sunday, there is going to be a special event in this country. On Sunday, we are going to have some of the privileged few of this country attend a ceremony called the Academy Awards. Today throughout the news, I read about how different people that were going to attend or perhaps even receive an Oscar at the Academy Awards were preparing these antiwar, anti-U.S., anti-American troop statements to present.

I want the people that are watching me and my colleagues this evening, on this floor, I want you to keep in mind that on Sunday as these movie actors such as George Clooney or Sean Penn or Julia Roberts or some of these other people, Martin Sheen is probably at the very head of that, as they pull up to the Academy Awards in their white limousines and walk on their red carpet and toast amongst the finest wine in this country, as they are in there on that stage being televised across this country on the Academy Awards, I want you to know that young American men and women could very likely be dying in the battlefield, dying to defend a country, dying to liberate another country, standing up for everything that this Nation believes in, a Nation that with its allies is willing to stand up and meet the challenge, to meet the cancer as it comes.

I will be very, very disappointed, and I hope the rest of America joins me in their disappointment if on Sunday during the Academy Awards that these people, the sponsors of the Academy Awards, the Motion Picture Association, the industry as a whole, if they stand there and allow these very privileged individuals, very privileged few amongst our population, condemn this Nation, condemn this administration, and in essence condemn the forces of the United States while, in fact, we have young men and women dying on those battlefields, and that could commence almost immediately.

Thank goodness there are nations like the United States of America and the British and the Spanish and the Italians and a number of other countries that are willing to stand up when good should rule over evil. They are willing to stand up and take on evil even though it is at the risk of their own life, at the risk of the safety of their own Nation, and how unfortunate that some people in the background who are safe in the foxhole take it upon themselves to come up with theories about how wrong the people that got out of foxhole are.

Again let me go back to the ad that Fred Thompson is running on TV. Freedom. It's the soldier, not the campus organizer, who's given us the freedom to demonstrate. It's the soldier, not the poet, who has given us the freedom of speech. It's the soldier, not the reporter, who's given us the freedom of press. It's the soldier who serves under the flag who defends the protester's right to burn the flag. Isn't it time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free.

Again, for those of you, and I hope that some of you have some correspondence with Hollywood, I hope when you have the Academy Awards and the Oscar things on Sunday, that you can keep in mind, is it not time now to demonstrate that we support our forces of the Americans and our forces of our allies?

□ 2130

The gentleman from Texas (Mr. BRADY) brought up some stuff about the willing coalition, the coalition of the willing. I have heard a lot of propaganda, a lot of propaganda, including the preceding speakers, not my colleague from Texas, but before we got our hour some of the preceding speakers talked about how the United States is doing it alone, how the United States as a super power is going forward and going after poor little old Saddam. Let me say that that is nothing but pure propaganda. The coalition that is willing to stand up to the vicious regime of Iraq and liberate the people of Iraq, that coalition is larger than the coalition we had in the first Persian Gulf war. We do not have 10 other countries joining us. We do not have 15 other countries joining us. We do not even have 20 other countries joining us. We do not have 25. We have 45 other nations, 45 other nations that are willing to stand up and stand up to this threat and put their national defense in line to stop this cancer.

Let me just give an example of a few of them. To my right take a look at this. I will just jump around. Afghanistan, Denmark, Hungary, Japan, Lithuania, Nicaragua, Rumania, Turkey, United Kingdom. The British, they have been tremendous. Tony Blair, a profile in courage. Slovakia, the Philippines, Macedonia, South Korea, Iceland, Ethiopia, El Salvador, Colombia, Albania, Australia, Italy, Georgia, the Netherlands, Poland, Spain. Take a look at these. And I saw an interesting article today by Andrew Sullivan. Let me read this. There are three categories, countries that explicitly support the United States' position; countries that support it but wanted a second resolution, that is the second category; and the third category are the countries that oppose the war against Saddam. In the first camp, we have the United Kingdom, Spain, Denmark, Italy, Lithuania, Poland, Hungary, Rumania, et cetera, et cetera, et cetera. In the first camp those who support the United States and its willing coalition number 45 as of this hour, 45 as of this hour.

In the second camp, supportive, we have the Netherlands, the Czech Republic, Slovenia, and Slovakia. I put those five in a broadly positive column. That makes the total, if we add to the 45, somewhere pushing 50. Then we have the neutral countries, the neutral countries out there in Europe: Ireland, Austria, Finland, Serbia, Switzerland, and Norway. Australia, by the way, has dedicated troops to this. Australia has come strongly into the coalition of the willing.

Then we have the opponents. Let me stress the opponents that we have here, and let us count them on a finger. France, Germany, Belgium, Luxemburg, Sweden, and Greece. By my count we have about six countries that are neutral, six countries that are opposed; and over 45 nations, over 45 nations, have joined with the United States one way or the other to cut the snake off this horrible regime that has in fact enslaved the people of Iraq.

And let me give some examples. Afghanistan, they have pledged their support for the U.S. efforts, may open air space to U.S. military flights, U.S. and all of the allies. Albania, little Albania, offered to send troops, approved the U.S. use of their air space and their bases. Australia sent 2,000 of their elite SAS troops. These SAS troops are amongst the best in the world, 2,000 of them. They have sent fighter jets and they have sent warships to the Gulf. That is Australia. Bahrain, the headquarters of the U.S. Fifth Fleet; Bulgaria offered the use of air space, base and refueling for U.S. war planes, sent 150 troops specializing in chemical and biological warfare decontamination. Croatia, air space and airports open to civilian transport planes from the coalition. The Czech Republic sent noncombat troops specializing in chemical warfare decontamination in response to the U.S. request.

This list goes on and on and on. There are a lot of people out there that realize what we are facing. They understand what the world will look like in 5 years from now if we do not do something about this.

My good friend from the State of Texas mentioned that he regretted the fact that the French and the Germans did not come on board early on in this game, that had they come on board and had they let Iraq know that they meant business, we probably would have been able to resolve this diplomatically. When should they have come on board? They should have come on board 11 years ago. They should have come on board at any time during those 17 separate resolutions.

The French adopted one policy. First of all, they let Iraq know that under no circumstances, no matter what they do, neither the French nor the Germans nor the Belgians will ever attack them with a war. So do not worry about leverage; do not worry about a threat. In the meantime let us negotiate and negotiate and negotiate. It was the French that took the lead in crafting the resolution called 1441 4½ months ago. It was the French that persuaded the Germans and the Belgians for a unanimous vote with the rest of their colleagues at the United Nations, for a unanimous vote, no ''no'' votes on 1441, and it was the French that were the first ones to back out. It was the French that were the first ones to stand down on enforcement of 1441. Had they stuck to their guns, had Saddam Hussein known that the entire international community including the limited few that are now are not part of the coalition, the French, the Germans, and the Belgians, had they known that we were unified, they probably would have resolved this diplomatically. Saddam Hussein really would have disarmed, probably. What kind of message does it send to the rest of the world, to a North Korea or to other countries like Iran or Libya or countries like that when they know that all they have got to do is get a little disagreement going between longtime allies and get one of the sides of that disagreement to say right at the very beginning we will never under any conditions go to war? What kind of leverage does that give to them?

I had a very interesting discussion today with the students, and they asked a number of questions, and I think they should be addressed. I want to just very quickly, briefly talk about them before I turn the floor over to my colleague again. First of all, we had a little discussion on the Hollywood type. I have talked about enough on Hollywood, although I would note that over the weekend the Dixie Chicks who made that very derogatory political cheap shot at our President, who I think has done a tremendous job with Condoleezza Rice, with Colin Powell, with DICK CHENEY, with Don Rumsfeld; but the Dixie Chicks brought it upon themselves on foreign territory to announce that they are disgraced that the President is from the State of Texas.

Let me say what America feels about that. Sales dropped so dramatically after their comment. They had the number one song in the country. It dropped off. Do the Members know what the number two song is after I think a week or 3 days of being out on the charts? A song entitled ''Have You Forgotten.'' As my good friend from the State of Texas's comments were throughout his speech, have you forgotten September 11? Have you forgotten what this country stands for? Have you forgotten what these soldiers have done, the soldiers that have allowed the reporters the freedom of the press, the soldiers that have allowed the poets the freedom of speech, the soldiers that have allowed the protestors in this country the right to protest, protests where they would be immediately executed if they tried to pull that off in Iraq?

And I say to these people, have they forgotten what America is about? Have they forgotten about the greatness of this country, that this country has gone to war more often than any other country for other nations? How many thousands and thousands and thousands of Americans lay in their graves on foreign soils having fought for those other countries? The United States is not a cocky country. The United States does not try to bully people around, but the United States is willing to stand up when it counts. Have we forgotten?

And I venture to say this evening that the majority of Americans have not forgotten, that the majority of Americans understand that the good and the might of this country will in the end prevail for all good and that good will prevail over evil, and I venture to say that most Americans will not take with a grain of salt these movie Hollywood actors on Sunday when they appear at the Academy Awards condemning the United States, condemning the administration, condemning the very privileges that made them the privileged few. I venture to say that the American citizens are eminently proud of those soldiers and sailors and Marines and Coast Guard and the people in this country that are supporting logistically those troops.

The students asked me, What about the human shields? Should we avoid the human shields? My position is this: if the human shields took direction from Saddam Hussein of where to go to provide themselves as human shields, they have crossed that line from being noncombatants to combatants, and, frankly, they are a fair target.

Let me talk very briefly about the question that came up, What if we make the terrorists mad? If we attack Iraq and disarm Saddam Hussein and liberate that country, won't we make other countries mad at us, other terrorists? I said, as a comparison, imagine if we said to the police officers of this country, Before you make an arrest, make sure that you do not make the family of the defendant, the person you are arresting, make sure their families are not mad about the fact that you are arresting them.

What about the preemptive strike? they asked. Do we have a right that this Nation preemptively strike? On September 11 things changed dramatically. First of all, when it comes to terrorism, we can no longer defend this country from terrorism. We cannot put a police officer in every theater. We cannot put a police officer in every restaurant. We cannot guard everything. We have got to reach out and strike at the terrorists that are out there. We have got to go after them. We cannot wait for them to come after us. We cannot play a defensive game. We have to be offensive in our nature when we talk about terrorism. We have to be willing to stand up and take a preemptive strike when we have somebody like Saddam Hussein, who, by the way, took the first preemptive strike when he invaded Iran, took another preemptive strike when he invaded Kuwait, took a preemptive strike when he gassed 60,000 of his own people. His own people, he gassed them, mustard gas, ricin, nerve gas, and I have got a chart of examples. We do not have time this evening, but I have a chart of examples of time after time that he used these weapons of mass destruction against the Iranians, against his own people.

So of course we have the right to go out there, and I said, As a comparison, think of your local police officers. We do not say to our police officers they do not have the right of a preemptive strike. In fact we specifically give them the right to preemptively strike. If they roll up at a bank and there is somebody with a gun or there is somebody anywhere, a domestic dispute, and there is somebody with a gun, we do not ask the police officer to be shot at first before he can under certain conditions. Fire first.

This country has met the highest of standards, and along with its allies do my colleagues think we can put together a coalition of 45 different nations in this world, opposed by only six? That is what we have right now. The governments of six people that have officially cited their opposition. Do my colleagues think we can put that together if we did not meet some pretty high standards, and if the snake and if the regime we are going after was not worthy of these people, sometimes not politically correct in their countries? Take a look at Tony Blair, still having enough guts to stand up and put a stop to the regime of Saddam Hussein.

Let me move on and kind of wrap up because I want to have my colleague, who made what I thought was a very accurate statement, conclude. But I want to just say a couple of things. I really was excited to talk to these students today, and I told these students, our newspapers just by the nature of the business they are in, they print the bad stuff. Young people, my son and daughters are now grown, but they are in their early 20s, and it is very easy for them to be discouraged about what does the future of this country look like, what is my future, the opportunities, myself and my colleagues we have for our family, we have for jobs, for opportunities? We read the papers. It is pretty easy to be discouraged.

But I say to them if they take a look at their generation, first of all, their generation has more opportunities than any other generation in the history of the world and certainly in the history of our country. Their generation is brighter than any generation in the history of this country, and I say to these young people, what is going wrong in our society? What is going right would go through the ceiling of this dome. In other words, what is going right way exceeds what is going wrong. And because of the military strength of this country, because of the strength of the character of the people of this country, because of the dedication and the willingness to sacrifice for freedom, for democracy, for freedom of speech, for the freedoms that we have enjoyed and many, many times taken for granted, because this Nation has met those standards, that is why we are the finest country in the history of the world.

□ 2145

It is not because we have the biggest military machine, but it is because we have that machine that we avoid many fights. It is because people cannot wait to get into this country. I say to people, I say, what other country in the world has immigration problems like this country? You know what? In the United States, you do not see people falling over each other or swimming the Rio Grande to get out of this country. You see people coming into this country any way they can, because of the American dream, because of the American standards of democracy, because of the character of the American people. And at this very hour we are being tested.

We have a regime that believes in murder. We have the worst murderer of Muslim people in the history of the world, who dares the United States to take him on, who dares the United States to tell him he cannot have weapons of mass destruction.

Well, he has called the bluff on the wrong coalition of the willing. Not only has the United States accepted his challenge, in fact the United Nations did not accept the challenge, but the United States did accept the challenge, the British accepted the challenge, the Spanish accepted the challenge, the Italians accepted the challenge. Forty-five countries accepted the challenge to stand up for the character of freedom and democracy and to stand against the terrible regime of a dictatorship which has stolen from the people of Iraq, has stolen from the people of Iraq the basic bill of rights, the basic freedoms they ought to be guaranteed.

I am so proud, and I will conclude with this, I am so, so proud of our forces out there, that voluntarily have entered there; the families, by the way, not just the men and women in the field, but those wonderful wives and husbands who are home managing families, without their spouse, worried about whether their spouse will survive. I am proud of all of you.

We are Americans. We will always be Americans, and America will always stand proud. I would like to yield to my friend from Texas. I thought his comments were most appropriate.

If the gentleman might yield for one moment, I have just been advised that the President of the United States will address the country at 10:15 this evening. I would urge, I am asking everybody, the gentleman from Texas will wrap these comments up in 5 or 10 minutes, I ask that you immediately

after the conclusion of these comments, go to your national TV network at 10:15. The President, the leader of our country will address this Nation. This speech is historical. It is imminently important. It is imminently important for all of us to watch that.

I am sorry to interrupt the gentleman.

Mr. BRADY of Texas. I appreciate your leadership, and I think you have really concluded on the right note at the right time.

We are facing history in a war that is so unique. It is unlike any other. I think what some people do not understand is that the international community has ranked those nations around the world who are the champions of state-sponsored terrorism, and have for many years. Of those countries, Iraq has topped that list for many, many years. Their ability and willingness to allow training of terrorists to occur, to allow financing of terrorists to occur, to allow safe haven and transit and medical treatment to those terrorists around the world all place them in a unique situation.

I will tell you that this past weekend we remembered the victims of Saddam Hussein's terrible chemical weapons attack on the people of Halabja, a city in northern Iraq, and other village attacks in the Al-Anfal campaign.

On March 6, 1988, 15 years ago, the Iraqi Air Force dropped a devastating mix of mustard and nerve gas on citizens in this city. Five thousand of Hussein's own people were killed immediately at his hand, several thousand died later, and an estimated 10,000 people were maimed and still are suffering the effects of this attack. If you wonder if this gentleman is capable of launching an attack, if not today, in the future as he grows stronger, all we need to do is look at his attack on his own people.

With this, I will conclude. I understand that the President's spokesman, Ari Fleischer, has just announced the disarmament of Iraq has begun. The President will address the Nation at 10:15.

I believe we are at this moment in time reflecting on, in the words on the wall of the George Bush Presidential Library in College Station, ''Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand.''

Tonight, under the President's leadership, yet again we will stand where duty requires us to stand.

RECESS

The SPEAKER pro tempore (Mr. BONNER). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 50 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2237

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 o'clock and 37 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–44) on the resolution (H. Res. 151) providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–45) on the resolution (H. Res. 152) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. DELAY) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. HONDA) to revise and extend their remarks and include extraneous material:

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:

Mr. DUNCAN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. RUPPERSBERGER, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 628. An Act to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia* Orbiter; to the Committee on Veterans' Affairs; and in addition to the Committee on Science for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until Thursday, March 20, 2003, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2002, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Karen McCarthy	12/10	12/12	New Zealand		638.00						638.00
	12/13	12/16	Australia		993.00						993.00
	12/17	12/18	Micronesia		180.00						180.00
	12/18	12/19	Marshall Islands		260.00						260.00
Committee total					2,071.00						2,071.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Ed Whitfield	11/24	11/29	Italy		2,080.00		[3]				2,080.00
	11/29	12/1	Greece		236.00		[3]				236.00
	12/1	12/2	Spain		196.00		[3]				196.00
Hon. Charles F. Bass	12/2	12/4	Germany		210.00		[3]		426.96		636.96
	12/4	12/6	Italy		832.00		[3]				832.00
Hon. Nathan Deal	12/11	12/14	England		1,233.00		[3]				1,233.00
	12/14	12/16	Italy		882.00		[3]				882.00
	12/16	12/17	Switzerland		345.00		[3]				345.00
	12/17	12/18	Netherlands		345.00		[3]				345.00
Hon. Karen McCarthy	12/8	12/12	New Zealand [4]								
	12/12	12/16	Australia [4]								
	12/16	12/19	Fed. States of Micronesia [4]								
Brendan Kelsay, minority staff	10/29	11/2	China (PRC)		1,239.00		5,664.50				6,903.50
Kelly Cole Zerzan, majority staff	10/29	11/2	China (PRC)		1,239.00		5,664,50				6,903.50
Hon. Clifford Stearns	12/2	12/4	Germany		428.00	6,791.78	6,728.54				7,156.54
	12/4	12/7	Italy		552.00		215.38		479.27		1,247.65
Ramsen Betfarhad, staff	12/2	12/4	Germany		428.00		1,505.91				1,933.91
	12/4	12/7	Italy		1,248.00						1,248.00
Hon. Rick Boucher	12/2	12/4	Germany		428.00						428.00
Hon. John Shimkus	11/22	11/24	Lithuania				4,846.61				4,846.61
	11/15	11/20	Turkey		1,357.00						1,357.00
	11/20	11/22	Italy		840.00						840.00
Committee total					14,118.00		24,625.44		906.23		39,649.67

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] To be requested next quarter. Attachment to follow.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1212. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Switzerland for defense articles and services (Transmittal No. 03-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1213. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services (Transmittal No. 03-09), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the ''2003 International Narcotics Control Strategy Report,'' pursuant to 22 U.S.C. 2291(b)(2); to the Committee on International Relations.

1215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia and Kazakhstan [Transmittal No. DTC 022-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1216. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia, Ukraine and Norway [Transmittal No. DTC 023-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1217. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 024-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1218. A communication from the President of the United States, transmitting a report in consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243); (H. Doc. No. 108—50); to the Committee on International Relations and ordered to be printed.

1219. A communication from the President of the United States, transmitting a resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, in accordance with Condition 9; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 151. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108–44). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 152. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–45). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mr. WEXLER, Mr. GRAVES, Ms. WATSON, Mr. BROWN of Ohio, and Mr. FALEOMAVAEGA):

H.R. 1345. A bill to provide compensation to members of the reserve components who

suffer discrepancies between their military and nonmilitary compensation as a result of being ordered to serve on active duty for a period of more than 30 days, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TURNER of Ohio:

H.R. 1346. A bill to amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency; to the Committee on Government Reform.

By Mr. FILNER:

H.R. 1347. A bill to amend title 38, United States Code, to repeal the requirement that for former prisoners of war to be eligible for Department of Veterans Affairs dental benefits they must have been interned for a specified minimum period of time; to the Committee on Veterans' Affairs.

By Mr. KANJORSKI (for himself and Mr. JEFFERSON):

H.R. 1348. A bill to assure quality and best value with respect to Federal construction projects by prohibiting the practice known as bid shopping; to the Committee on Government Reform.

By Mr. BURTON of Indiana (for himself, Mr. PALLONE, Mr. SESSIONS, Mr. PAUL, Mrs. JO ANN DAVIS of Virginia, Mrs. MALONEY, Mr. FORD, Mr. MOORE, Mr. RYUN of Kansas, Mr. DUNCAN, Mr. STENHOLM, Mr. THORNBERRY, Mr. NADLER, Mr. WAMP, Mr. ALLEN, Mr. LATOURETTE, Mr. NORWOOD, Mr. ACKERMAN, Mr. PLATTS, Ms. WATSON, Mrs. CUBIN, Mr. SHAYS, Mr. GUTKNECHT, Mr. HOSTETTLER, Mr. HOEKSTRA, Mr. TANCREDO, Mr. TOOMEY, Mr. TURNER of Ohio, Mr. SMITH of Michigan, Mr. BARTLETT of Maryland, and Mr. JONES of North Carolina):

H.R. 1349. A bill to amend the Public Health Service Act with respect to the National Vaccine Injury Compensation Program; to the Committee on Energy and Commerce.

By Mr. CASTLE (for himself, Mr. BOEHNER, Mr. BALLENGER, Mr. MCKEON, Mr. SAM JOHNSON of Texas, Mr. GREENWOOD, Mr. DEMINT, Mrs. BIGGERT, Mr. TIBERI, Mr. KELLER, Mr. WILSON of South Carolina, and Mr. COLE):

H.R. 1350. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ACEVEDO-VILA:

H.R. 1351. A bill to amend title XVIII of the Social Security Act to increase payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 1352. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in biomedical research conducted through the National Institutes of Health; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California (for herself, Mr. ISSA, Mr. RODRIGUEZ, Mr. REYES, Mr. FROST, Mr. FILNER, and Mr. CUNNINGHAM):

H.R. 1353. A bill to authorize the Port Passenger Accelerated Service System (PortPASS) as a permanent program for land border inspection under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. TOM DAVIS of Virginia:

H.R. 1354. A bill to amend section 19 of title 3, United States Code, to include the Secretary of Homeland Security on the list of presidential successors; to the Committee on the Judiciary.

By Ms. DELAURO (for herself, Mr. NEAL of Massachusetts, and Mr. DOGGETT):

H.R. 1355. A bill to amend the Homeland Security Act of 2002 to clarify that a prohibition on contracting by the Secretary of Homeland Security with foreign incorporated entities applies to contracting with subsidiaries of such entities, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 1356. A bill to encourage the availability and use of motor vehicles that have improved fuel efficiency, in order to reduce the need to import oil into the United States; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH:

H.R. 1357. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Financial Services.

By Mr. ISRAEL (for himself and Mr. KIRK):

H.R. 1358. A bill to amend the Foreign Assistance Act of 1961 to require the Secretary of State to include in the annual Department of State's Country Reports on Human Rights Practices information on the nature and extent of the promotion of violence and hatred in the curriculum of schools in foreign countries, including the promotion of anti-Americanism, anti-Semitism, and racism; to the Committee on International Relations.

By Mr. KENNEDY of Rhode Island (for himself, Ms. ROS-LEHTINEN, Ms. NORTON, Mr. KILDEE, Mr. PLATTS, Mr. OWENS, Ms. KILPATRICK, Mr. LANTOS, Mr. SERRANO, Mr. DEUTSCH, Mr. STARK, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1359. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, and Mr. BURTON of Indiana):

H.R. 1360. A bill to amend certain provisions of title 39, United States Code, relating to transportation of mail; to the Committee on Government Reform.

By Mr. MEEK of Florida (for himself, Ms. ROS-LEHTINEN, Mr. BOYD, Ms. CORRINE BROWN of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. BILIRAKIS, Mr. DAVIS of Florida, Ms. HARRIS, Mr. GOSS, Mr. FOLEY, Mr. WEXLER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DEUTSCH, Mr. SHAW, Mr. HASTINGS of Florida, Mr. FEENEY, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1361. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-MCDONALD:

H.R. 1362. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself and Mr. ANDREWS):

H.R. 1363. A bill to prohibit institutions of higher education from unfairly imposing sanctions on student athletes; to the Committee on Education and the Workforce.

By Mr. NADLER:

H.R. 1364. A bill to authorize a national memorial at, or proximate to, the World Trade Center site to commemorate the tragic events of September 11, 2001, to establish the World Trade Center Memorial Advisory Board, and for other purposes; to the Committee on Resources.

By Ms. NORTON:

H.R. 1365. A bill to establish the United States Commission on an Open Society with Security; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. DEFAZIO, and Mr. LIPINSKI):

H.R. 1366. A bill to amend title 49, United States Code, to provide relief to the airline industry, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PICKERING (for himself and Mr. TURNER of Texas):

H.R. 1367. A bill to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations, and for other purposes; to the Committee on Agriculture.

By Mr. POMBO (for himself, Mr. SCHIFF, Ms. ESHOO, Ms. LEE, Mr. FILNER, Mr. SHERMAN, Mr. DOOLEY of California, Mr. COX, Mr. ROHRABACHER, Mr. ISSA, Mr. DREIER, Mr. CARDOZA, Mr. NUNES, Ms. WATSON, Mr. OSE, Mr. HUNTER, Mr. ROYCE, Mrs. TAUSCHER, Mr. GALLEGLY, Mr. STARK, Mr. GARY G. MILLER of California, Mr. GEORGE MILLER of California, Mr. RADANOVICH, Mrs. NAPOLITANO, Mr. WAXMAN, Ms. SOLIS, Mr. BERMAN, Mr. MCKEON, Ms. HARMAN, Mr. LEWIS of California, Mr. BACA, Mr. DOOLITTLE, Ms. MILLENDER-MCDONALD, Mr. CALVERT, Ms. LINDA T. SANCHEZ of California, Mrs. CAPPS, Ms. LORETTA SANCHEZ of California, Ms. ROYBAL-ALLARD, Ms. WOOLSEY, Mrs. BONO, Ms. WATERS, Mr. HONDA, Mr. THOMPSON of California, Ms. PELOSI, Mr. CUNNINGHAM,

Mr. MATSUI, Mr. FARR, Mrs. DAVIS of California, Mr. LANTOS, Mr. HERGER, Mr. THOMAS, Mr. BECERRA, and Ms. LOFGREN):

H.R. 1368. A bill to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman Shumway Post Office Building''; to the Committee on Government Reform.

By Mr. RAMSTAD (for himself, Mr. CRANE, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. SANDLIN, Mrs. JONES of Ohio, Mr. BUYER, and Mr. TAYLOR of Mississippi):

H.R. 1369. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for overnight travel expenses of national guard and reserve members; to the Committee on Ways and Means.

By Mr. WYNN (for himself and Mr. BURR):

H.R. 1370. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH:

H. Con. Res. 101. Concurrent resolution expressing the sense of the Congress that Public Law 107-243, the authorization to use military force against Iraq, is null and void; to the Committee on International Relations.

By Ms. JACKSON-LEE of Texas (for herself and Mr. CONYERS):

H. Con. Res. 102. Concurrent resolution expressing the sense of Congress that Congress has the sole and exclusive power to declare war; to the Committee on International Relations.

By Mr. BEREUTER (for himself, Mr. EMANUEL, Mr. HYDE, Mr. LANTOS, and Mr. WEXLER):

H. Res. 149. A resolution expressing the condolences of the House of Representatives in response to the assassination of Prime Minister Zoran Djindjic of Serbia, and for other purposes; to the Committee on International Relations.

By Mr. RYUN of Kansas (for himself and Mr. BECERRA):

H. Res. 150. A resolution expressing the support of the House of Representatives for the members of the Armed Forces of the United States called upon to engage in possible military action in Iraq; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. LANTOS introduced a bill (H.R. 1371) for the relief of Kuan-Wei Liang and Chun-Mei Hsu-Liang; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. KLECZKA, Ms. WOOLSEY, and Mr. GREEN of Texas.

H.R. 33: Mr. DEAL of Georgia and Mr. HEFLEY.

H.R. 44: Mr. MCHUGH.

H.R. 58: Mr. HONDA, Mr. GRIJALVA, Mr. BOUCHER, Mr. DOGGETT, Mr. LUCAS of Kentucky, Mr. RYAN of Ohio, Mr. FLAKE, Mr. GOODLATTE, and Mr. BISHOP of Georgia.

H.R. 135: Ms. BORDALLO.

H.R. 140: Mr. ISRAEL.

H.R. 141: Mr. WATT.

H.R. 151: Ms. LEE and Mr. STUPAK.

H.R. 218: Mr. DEMINT, Mr. DOOLITTLE, Mr. MURTHA, and Mr. COLE.

H.R. 236: Mr. MOLLOHAN and Mr. UDALL of New Mexico.

H.R. 290: Ms. NORTON and Mr. MCHUGH.

H.R. 294: Mr. GREEN of Wisconsin and Mr. MILLER of Florida.

H.R. 296: Mr. GRIJALVA.

H.R. 303: Mr. BARRETT of South Carolina and Mr. GILCHREST.

H.R. 339: Mr. BOEHNER, Mr. DEMINT, and Mr. HOEKSTRA.

H.R. 348: Mr. DAVIS of Tennessee, Mr. FILNER, Mr. JEFFERSON, Mr. WILSON of South Carolina, Mr. MCCRERY.

H.R. 375: Mr. GILLMOR, Mr. BRADLEY of New Hampshire.

H.R. 450: Mr. MCHUGH and Mrs. JOHNSON of Connecticut.

H.R. 463: Mr. MCINNIS and Mr. FOLEY.

H.R. 466: Mrs. WILSON of New Mexico and Ms. LOFGREN.

H.R. 491: Mr. MICHAUD.

H.R. 496: Mr. MOORE.

H.R. 501: Mr. MCCOTTER.

H.R. 502: Mr. STENHOLM.

H.R. 503: Mr. PETRI, Mr. GRIJALVA, and Mr. POMBO.

H.R. 584: Mr. MORAN of Virginia.

H.R. 594: Mr. CARDOZA, Mr. DEUTSCH, Mr. WEXLER, Mr. MORAN of Virginia, Mr. DAVIS of Florida, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mr. NORWOOD, Mr. ENGEL, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 623: Mr. ABERCROMBIE.

H.R. 661: Mr. ENGLISH.

H.R. 669: Mr. VAN HOLLEN.

H.R. 677: Mr. FARR.

H.R. 714: Mr. ISTOOK and Mr. MORAN of Kansas.

H.R. 728: Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. SESSIONS, and Mr. CANNON.

H.R. 735: Ms. NORTON and Mr. VISCLOSKY.

H.R. 766: Mr. WATT, Mr. FILNER, Mr. DAVIS of Tennessee, and Ms. JACKSON-LEE of Texas.

H.R. 771: Mr. OSE, Mr. WHITFIELD, Mr. KIRK, Mr. PICKERING, and Mr. TERRY.

H.R. 775: Mr. OXLEY.

H.R. 786: Mr. LEWIS of Georgia.

H.R. 791: Mr. RYAN of Wisconsin and Mr. SIMMONS.

H.R. 811: Mrs. JONES of Ohio and Mr. SANDERS.

H.R. 817: Mr. ENGEL and Mrs. MALONEY.

H.R. 834: Mr. BLUMENAUER, Mr. BOSWELL, Mr. BOOZMAN, Mr. EVANS, Mr. DEAL of Georgia, Mr. KING of New York, Mr. PORTER, Ms. BORDALLO, Mr. COLE, Ms. GINNY BROWN-WAITE of Florida, and Mr. ETHERIDGE.

H.R. 839: Mr. VAN HOLLEN, Mr. GRIJALVA, and Mr. TURNER of Ohio.

H.R. 844: Mr. DAVIS of Illinois.

H.R. 854: Mr. GALLEGLY.

H.R. 870: Mr. SAM JOHNSON of Texas.

H.R. 871: Mr. LATHAM.

H.R. 876: Mr. TIAHRT.

H.R. 896: Mr. BRADY of Pennsylvania.

H.R. 898: Mr. WATT.

H.R. 934: Mr. STENHOLM.

H.R. 936: Mr. FROST, Mr. RANGEL, Mr. OLVER, Mr. BERMAN, Mr. NADLER, and Mr. RUSH.

H.R. 946: Mrs. JO ANN DAVIS of Virginia.

H.R. 953: Mr. BELL and Mr. MICHAUD.

H.R. 974: Mr. LAMPSON.

H.R. 983: Ms. WATSON and Mr. HOUGHTON.

H.R. 1023: Mr. BAKER.

H.R. 1029: Ms. SCHAKOWSKY.

H.R. 1068: Ms. SCHAKOWSKY, Mr. BERMAN, Mr. DINGELL, Mrs. MALONEY, Mr. BRADLEY of New Hampshire, Mr. OSBORNE, Mr. MCCOTTER, Mr. THOMPSON of Mississippi, and Mr. WICKER.

H.R. 1072: Mr. CANNON and Mr. SIMMONS.

H.R. 1085: Mr. BISHOP of Utah.

H.R. 1095: Mr. BARTLETT of Maryland.

H.R. 1096: Mr. HINOJOSA.

H.R. 1101: Mrs. JO ANN DAVIS of Virginia.

H.R. 1104: Mr. PLATTS, Mr. VITTER, Mr. MARIO DIAZ-BALART of Florida, and Mr. POMEROY.

H.R. 1118: Mr. SHAYS, Mr. MEEHAN, Mr. KILDEE, Mr. DEFAZIO, Mr. PALLONE, Mrs. EMERSON, Mr. MENENDEZ, Mr. SMITH of Washington, and Mr. ABERCROMBIE.

H.R. 1125: Mr. GOODLATTE, Mr. MCCOTTER, and Mrs. JONES of Ohio.

H.R. 1132: Mr. CUMMINGS, Mr. CROWLEY, Ms. LEE, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Ms. JACKSON-LEE of Texas.

H.R. 1133: Ms. CARSON of Indiana, Mr. MARKEY, Mr. SERRANO, Mr. KILDEE, and Mr. VAN HOLLEN.

H.R. 1157: Mr. MOORE, Ms. SCHAKOWSKY, Mr. ENGEL, and Ms. KILPATRICK.

H.R. 1166: Mrs. CUBIN.

H.R. 1170: Mr. RAMSTAD, Mr. NORWOOD, and Mr. FRANKS of Arizona.

H.R. 1175: Mr. MARIO DIAZ-BALART of Florida.

H.R. 1191: Mr. THOMPSON of Mississippi, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, and Mr. GILLMOR.

H.R. 1192: Ms. ROYBAL-ALLARD.

H.R. 1225: Mr. MCNULTY and Ms. MCCARTHY of Missouri.

H.R. 1231: Mr. BRADLEY of New Hampshire, Mr. MATHESON, Mrs. MILLER of Michigan, Mr. GRIJALVA, Mr. GREEN of Wisconsin, Ms. GINNY BROWN-WAITE of Florida, Mrs. MCCARTHY of New York, Ms. LOFGREN, Mr. GOODLATTE, Mr. NORWOOD, Mr. FRANKS of Arizona, and Mr. PUTNAM.

H.R. 1258: Mr. BOUCHER.

H.R. 1263: Mr. BACA.

H.R. 1264: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDOZA, Mr. MENENDEZ, and Mr. KILDEE.

H.R. 1290: Ms. BALDWIN.

H.R. 1294: Mr. FROST, Mr. MCDERMOTT, and Mr. CASE.

H.R. 1305: Mr. YOUNG of Alaska and Mr. RYAN of Ohio.

H.R. 1320: Mr. KIRK, Mr. PICKERING, Mr. BASS, and Mr. WHITFIELD.

H.J. Res. 4: Mr. KING of Iowa, Mr. PORTER, and Mr. RENZI.

H.J. Res. 20: Mr. RANGEL.

H.J. Res. 22: Mr. PLATTS.

H.J. Res. 24: Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SANDERS, Mr. TOWNS, Mr. WU, and Ms. SOLIS.

H.J. Res. 37: Mr. LOBIONDO and Mr. KANJORSKI.

H. Con. Res. 30: Mr. DEUTSCH.

H. Con. Res. 56: Mr. BRADLEY of New Hampshire.

H. Con. Res. 78: Mr. NADLER.

H. Con. Res. 80: Mr. MEEKS of New York, Ms. WATSON, Mrs. NAPOLITANO, and Mr. BLUMENAUER.

H. Res. 141: Mr. FARR and Mr. HASTINGS of Florida.

H. Res. 142: Ms. NORTON.