United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRSTSESSION

Vol. 151 WASHINGTON, THURSDAY, APRIL 14, 2005 *No. 44*

House of Representatives

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Father and Lord of the living, enable us to approach You with humility of heart and poverty of spirit.

The Members of Congress are powerful people. Their words bear weight and their positions before the people deserve respect. Therefore, they need to be steeled from arrogance on one side and casual routine on the other.

Lord, only the two-edged sword of Your Word and Your purity of Spirit can bring freshness to their spirits and confirming hope to their constituents. Strengthen their pledge to uphold the Constitution against blatant and subtle attacks and to serve the people with all their hearts.

Then may their speech, their decisions, and their working together with the pluralism of this democracy give You the glory, honor, and power now and forever.

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 gentleman from Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH 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 with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the Democratic Leader, announces the appointment of the following individual to the Advisory Committee on the Records of Congress: Mr. Guy Rocha of Nevada, vice Stephen Van Buren of South Dakota.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1-minute speeches on each side.

QUESTIONING THE LEADERSHIP ACROSS THE AISLE

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

Mrs. BLACKBURN. Mr. Speaker, yesterday the minority leader of this body slammed the good work we did in repealing the death tax. She called it ''reverse Robin Hood.''

Well, Mr. Speaker, in my opinion, the minority leader owes an apology to all those families that will get to keep the family farm and to all of those small businesses that will survive a second generation because of this tax relief, and she owes an apology to the 42 Democrats who voted with the Republican majority for this very important tax relief.

One has to question the choice of leadership across the aisle. The liberal leadership has opposed repealing the death tax, which is a triple tax on America's working families. They have opposed an energy bill for years now, and they have not supported strengthening our immigration laws. Now they are fighting tooth and nail to prevent Social Security reform.

Mr. Speaker, my constituents are asking what, if anything, do they stand for? In my opinion, they stand for more tax and more spend, everything costs more. I want the American people to know the Republican majority in this House is going to fight to be certain they do not get their way.

SUPPORT RESOLUTION OF INQUIRY REGARDING SOCIAL SECURITY TRUST FUND

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

Mr. KUCINICH. Mr. Speaker, I am going to be in Columbus, Ohio, tomorrow speaking on education when the President is visiting the Cleveland area to speak on Social Security. Now, the President has alternately asserted there is no Social Security trust fund or it is just IOUs.

Here is a copy of the trust fund report from the Social Security Administration. There is a $1.68 trillion surplus in the trust fund. It will grow to $6.6 trillion by 2028. The IOUs the President speaks about are loans that are backed by the full faith and credit of the United States.

Question: Is the President reneging on repaying the more than $637 billion his administration borrowed from the trust fund?

Question: Is this a scheme for the administration to transfer Social Security wealth from tens of millions of American workers to pay for the tax cuts for the rich?

A few weeks ago, I introduced a Resolution of Inquiry asking the President to produce documents to back up his claim there is no trust fund. If anyone in this House has those documents,

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make them public. Otherwise, support H. Res. 170, which requires the President to prove his assertion about the trust fund.

This Congress was misled about Iraq. Let us not be misled about Social Security. We do not need a select committee, a Presidential commission, or a Senate investigation. We just need the House to support H. Res. 170.

HONORING THE PASSING OF BILL LEHMAN

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

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor the passing of a good friend, Bill Lehman, retired Member of Congress and a faithful servant of the Great State of Florida.

In 1972, Bill ran for Congress and got the overwhelming majority of the vote and kept getting reelected easily until his retirement. As chairman of the Committee on Appropriations Subcommittee on Transportation, Bill Lehman was a relentless advocate for the needs of the citizens of Miami-Dade County.

Bill was an avid supporter of human rights also, demonstrating his ability to not only fight for the constituents in his district, but also for people throughout the world. He served his country as a Congressman, school board chairman, and was a beloved teacher, husband, father, and grandfather.

During my first term in Congress in 1989, I saw firsthand the tremendous love that Bill had for his constituents and the admiration that the people of south Florida had for him.

Mr. Speaker, I join the people of Miami-Dade, the State of Florida, and our country in honoring the exemplary life of a great statesman, Congressman Bill Lehman. May he rest in peace.

PROTECTING AMERICANS AGAINST ID THEFT

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

Mr. EMANUEL. Mr. Speaker, another major security breach involving the personal ID theft of 180,000 GM and MasterCard credit card holders should wake up Congress to deliver tough national standards for protecting Americans against ID theft. But this recent outbreak of 180,000 GM and MasterCard credit holders' ID is on the heels of Choice Point, Bank of America and Lexus-Nexus and shows there are too many fraud artists posing as individual businesses and too many individual consumers whose identity is now being stolen and used against them.

According to the Privacy Rights Center, up to 10 million Americans are victims of ID theft each year. They have a right to be notified when their most sensitive health data is stolen.

In response to this problem, there have been bipartisan solutions offered to address it. The gentlewoman from Illinois (Ms. BEAN), the gentleman from Illinois (Mr. GUTIERREZ), the gentlewoman from New York (Ms. SLAUGHTER), and I have introduced the Notification of Risk to Personal Data Act as one piece of legislation. Our legislation requires consumers to be immediately notified when their personal data has been stolen or acquired by an unauthorized person and imposes tough new penalties on violators.

Mr. Speaker, Americans want, need, and rightfully expect Congress to protect them from the prying eyes of identity thieves and give them back control of their Social Security numbers and personal health information.

SUPPORTING LEADERSHIP OF PRESIDENT ON SOCIAL SECURITY

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

Mr. CHOCOLA. Mr. Speaker, this morning I rise in support of the leadership of our President as it relates to Social Security.

Just a couple of weeks ago the President was in my district, and he shared with the people of north central Indiana that we have an undeniable challenge with Social Security. The President believes that leadership solves problems and that leaders do not pass problems along to future generations. He also said that all ideas are on the table.

So, Mr. Speaker, I encourage all of my colleagues, especially those on other side of the aisle, to become part of the solution, rather than just part of the problem. If we say what we are against and we only say what we are against, we only add to the problem; but if we say what we are for and we offer constructive solutions, even if we do not agree with all the solutions offered, let us say that we have a better idea.

Mr. Speaker, I think it is imperative for the American people that we all become part of the solution, we all offer good ideas to make sure that we address one of the most serious problems we face as a Nation, because that is exactly what we are elected for. So I encourage all of my colleagues to be part of the solution.

CLARIFICATION ON COMMENTS ON JUDICIARY NEEDED

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

Mr. INSLEE. Mr. Speaker, some time ago the majority leader of the House, in response to the Schiavo decision, said, ''The time will come for the men responsible for this to answer for their behavior.'' The majority leader yesterday rightfully apologized for those comments, and I think that we should respect that apology, because we are all capable of saying something that we regret that was misunderstood.

But it is most troubling that at the same time the majority leader again threatened the independence of the judiciary. He threatened them with taking away their jurisdiction, he threatened them with breaking up their districts, and he basically threatened this organ of our government that is responsible for our freedoms, for protecting our freedom of religion and protecting our freedom of speech. We have what Russia did not have, an independent judiciary; and I am most troubled that the majority leader, when it comes to their independence and our freedoms and the importance of both of those things, just does not get it.

Mr. Speaker, I am hopeful that he will reconsider his comments yesterday and follow his first apology, if not with a second, with at least a clarification.

PROTECTING THE AMERICAN DREAM

(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, yesterday's passage of the Death Tax Repeal Permanency Act was a victory for American families, farmers, and small business owners.

Since reducing the death tax in 2001, over 3 million new jobs have been created in our country. Unfortunately, Congress provided the American people with a temporary solution to a serious problem. The death tax is scheduled to go back into effect in 2010.

The leadership on this issue of the gentleman from Missouri (Mr. HULSHOF) and the majority leader, the gentleman from Texas (Mr. DELAY), has been essential in protecting the American Dream.

□ 1015

The Death Tax Permanency Act will ensure that our tax system does not continue to penalize family-owned businesses such as dealerships, funeral homes, and beverage distributors. As a former probate attorney, I know firsthand we need to end this unfair devil tax which hurts families.

In conclusion, God bless our troops, and we will never forget September 11.

ACCOUNTABILITY IN THE VALERIE PLAME MATTER

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

Mr. HOLT. Mr. Speaker, nearly 2 years after a columnist disclosed the identity of a CIA employee, the White House and the Department of Justice have yet to find and hold accountable

the person or persons who leaked her name to the press.

We know that at least one, and possibly more, executive branch officials violated their oaths to protect classified information and, in doing so, they squandered an important intelligence asset and may have jeopardized the lives of people with whom she has been in contact. American security was harmed.

Some have offered weak excuses for the disclosure, saying the person's identity was already known or her work was not really important. Those are outrageous excuses. More troubling still is the fact that this was leaked in the context of a political vendetta. According to published reports, the leaker was trying to discredit former ambassador Joe Wilson, who was disputing the administration's assertions that Saddam was trying to unleash weapons of mass destruction on the United States. Of course, we now know Wilson was right.

As President George Herbert Walker Bush stated in a speech to CIA employees a few years ago, ''Those who leak the identity of intelligence operatives are the most insidious of traders.'' What does it say about the ethics and responsibilities of this body and the administration that attempts to find this person have been so anemic?

URGENT NEED TO STRENGTHEN SOCIAL SECURITY

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

Mr. GINGREY. Mr. Speaker, I rise today to speak about the urgent need to strengthen Social Security.

It is often said the first step to recovery is admitting you have a problem. Well, we have a problem. We have a serious problems.

Analysts predict that Social Security will be bankrupt by 2042. That may seem a far way off but, in reality, it means Social Security will not be around when today's 20-year-olds retire.

Since the 1930s, we have seen medical advances, technological advances, transportation advances, but we have not seen Social Security advances. We have to make this program sustainable for current and future demographics. We cannot do that if we are stuck using a 1935 model.

Let me be clear. When we talk about reforming the system, we are talking about strengthening Social Security for future generations, not weakening today's retirees or near retirees, who will get every single benefit they have been promised. While Social Security will not change for today's seniors, we have to fix the system for tomorrow's seniors.

My colleagues on the other side of the aisle may be content to make Social Security a political issue, but I am not. Our children's future is too important for political posturing. My concern is more about the next generation than the next election.

SOCIAL SECURITY AND AFRICAN AMERICANS

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, the President's very cynical attempt to sell his Social Security privatization scheme to African Americans, quite frankly, is very painful. Thank goodness African Americans are not buying it.

President Bush said that his privatization plan would benefit African Americans because we have a shorter life expectancy. It is truly remarkable that the President would rather exploit African Americans' shorter life expectancy to sell his privatization plan than actually do something to help African Americans live longer.

If the President is truly concerned about African Americans, he should support legislation and funding to address the health disparities that contribute to shorter life expectancy. Sadly, this is just the sort of cynical, divisive move we have come to expect from an administration that is bent on cutting the guaranteed benefit of Social Security and entrusting our seniors' retirement security to Wall Street and a roll of the dice.

Mr. Speaker, Julian Bond, President of the NAACP, and the gentleman from Maryland (Mr. CUMMINGS) were correct to call the President on this earlier this week.

HONORING MARYLAND VETERAN OF THE YEAR ORVILLE HUGHES

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

Mr. BARTLETT of Maryland. Mr. Speaker, we cannot live in the land of the free without thanking the brave veterans who secure our liberty. It is my privilege to honor Colonel Orville Hughes from Monkton, Maryland, selected Veteran of the Year by the Joint Veterans' Committee of Maryland.

Colonel Orville Hughes served our country for 27 years in the Army during World War II, Korea, and Vietnam. He was a POW in Germany, earned a Silver Star in Korea, and served as the military attache at the embassy in Vienna, Austria. He earned many other commendations, including the Legion of Merit and the Purple Heart.

After his retirement from the Army, Colonel Orville Hughes continued to serve our country through the DAV, VFW, Military Order of the Purple Heart, American ex-POWs, and the American Legion.

I hope that by honoring the contributions of Colonel Orville Hughes to the country we love, we will appreciate and be inspired by his great example of achievement and service to others.

DEFENDING THE CONSTITUTION AND THE JUDICIARY'S RIGHT TO MAKE DECISIONS

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is interesting, as I listened to a colleague at the beginning of our messages to the House who seemingly wanted to shut the lights off in this place and extinguish the Constitution, which reflects that we are not only a republic but we are a democracy. Democrats have a right to disagree with Social Security policies, medicaid, medicare, and educational policies, because this is a democracy.

Proudly so, we represent half of the United States of America, and we will continue to fight for our issues. One of those issues has to be to support this Constitution, the belief that we are a country governed by laws.

The Constitution designates under article 3 that we have a separate, independent judiciary, one that should be safely secured. Therefore, when Members of the opposite side of the aisle begin to attack court systems simply because they do not agree, they have violated the constitutional provisions that we adhere to.

It is a shame that judges are cowering in the corners because Members have decided to speak ugly against their right to make a decision. When conferences are held in Washington, D.C., and ultraconservatives begin to attack the judiciary, it is time for this congressional body to stand up and defend the Constitution.

END THE TYRANNY OF APRIL 15 ANXIETY

(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, my late father used to say, you only have to do two things in life: die and pay taxes. Just about 40 minutes ago, I did one of those things, and I will let my colleagues guess which one it was.

Like millions of Americans, before midnight tomorrow night, I managed to fill out all of the forms which, for me, as a man of no significant means, a public servant married to a schoolteacher, there were only forms that I had to file in three States and with one national government. The full total of the pages that I had to fill out and file neared to 100.

Mr. Speaker, the People's House is supposed to resonate with the hearts of the American people. As we approach this tax day and go through our usual spring ritual of arguments in Washington, D.C., I hope the Congress will resonate with the heart of the American people and seize upon the opportunity to simplify this tax system and end the tyranny of anxiety that reigns throughout the land every April 15.

THE WASHINGTON LOBBYISTS

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

Mr. BROWN of Ohio. Mr. Speaker, today is an important day. It is opening day for the Washington Nationals. Baseball is back in Washington. But we ought to come up with a better name than the Washington Nationals, a name that really fits this city.

The new baseball team should be called the Washington Lobbyists. After all, who runs this town? The energy lobbyists that wrote the energy bill last night in committee, the bank lobbyists who wrote the bankruptcy bill today, the pharmaceutical lobbyists who write the medicare legislation, the Wall Street lobbyists who write the Social Security privacy legislation, and they and their Republican allies in Congress play under different rules. ''It ain't over 'til it's over,'' unless we are losing.

At home games, the Washington Lobbyists could hold the game open, adding extra innings if they are losing at the end of the arbitrary nine. Instead of the oh-so-boring ball day and bat day, we could have Halliburton Gasoline Night: a tank of gas for the first thousand fans at the Halliburton patriotic price of $8.95 a gallon. Or, we could have the Enron Double Header: fans get in early with promises of a big win, but then the team kicks you out and takes your pension away. Or, we could have Wal-Mart Kids Day: kids do not actually get to watch the game. Somebody has actually got to work the concession stand, after all.

Mr. Speaker, if we want to change how things work in Washington, we need a new pitching staff, and the Washington Lobbyists have to go.

CELEBRATING THE WASHINGTON NATIONALS

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

Mr. DREIER. Mr. Speaker, as I listened to my colleague talk about baseball, I have to say that when I first came to this town, I was told that there were two things that mattered: number one, the government; number two, the Redskins. I am so gratified that tonight we will have the opportunity to experience the opening game of the Nationals.

Now, I am a loyal Dodger fan. Tommy Lasorda has repeatedly told me that if I want to go to heaven, I must be a Dodger fan. But I want to congratulate the District of Columbia and all who have been involved in putting together this team. It has been 34 years since a baseball game has been played, a National League baseball game has been played in the District of Columbia, and we are very, very fortunate as a community to be able to focus on something other than the government and something other than the Redskins.

REAL SOLUTIONS FOR SOCIAL SECURITY AND THE DEFICIT

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, irresponsible budget and tax policies have squandered the budget surpluses that President Bush inherited and turned them into a legacy of debt and deficits. Now he is trying to do the same thing to Social Security with a private accounts plan that would add trillions to our national debt.

This plan is exactly backwards. Instead of thinking up ways to weaken the Social Security Trust Fund, we should be taking steps to guarantee that the assets in the trust fund are truly there to pay future benefits. We cannot do that if we run up large deficits outside Social Security that weaken our economy and increase our foreign debt.

Anyone looking for a plan to address the Social Security problem can begin with two basic steps. First, take private accounts, privatization off the table; and, second, worry about the real crisis, which is the current budget deficit outside Social Security.

THE ''GEORGE W. BUSH BUREAU OF PUBLIC DEBT''

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

Mr. OBEY. Mr. Speaker, I am getting increasingly worried because we have named many a building after Ronald Reagan, but we have not yet named anything significant after our existing President, George W. Bush.

In light of the fact that the estate tax bill that passed yesterday will add $290 billion to the national debt, in light of the fact that the President has presented us with a budget deficit of $400 billion this year, not counting what happened yesterday, in light of the fact that he is trying to blow up Social Security by borrowing an extra $1.4 billion to finance those privatization accounts of his, I hope that Members of the House will join me next week in renaming the U.S. Bureau of Public Debt the ''George W. Bush Bureau of Public Debt.''

I think we ought to honor the President. He has truly earned this award.

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 211 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 211

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (S. 256) to amend title 11 of the United States Code, and for other purposes. All points of order against the bill and against its consideration are waived. The bill shall be considered as read. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a closed rule providing for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

□ 1030

The rule provides for 1 hour debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against the bill and its consideration, and it provides for one motion to recommit with or without instructions.

GENERAL LEAVE

Mr. GINGREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 211.

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

There was no objection.

Mr. GINGREY. Mr. Speaker, bankruptcy reform is overdue for passage. Despite its critics, S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, does not exclude anyone from filing for bankruptcy. Instead, it implements a simple means test to shield debtors who make below their State's median income and to determine if a higher income debtor has the ability to partially pay back his or her creditors.

To phrase it simply, bankruptcy reform is financial accountability. It protects our system against fraud and abuse. And it asks those who have the means to repay as much of their debts as they can.

For at least four previous Congresses, members have been trying to reform our ''when in doubt, bail out society'' in favor of personal responsibility. Bankruptcy should not be a financial planning tool, and it should be available for legitimate emergency situations only. Our bankruptcy system should fit the needs of the individual, no more, no less. With this rule, and

passage of the underlying legislation, S. 256 we will finally see some movement in the right direction.

Bankruptcy reform is important to help speed up court hearings, because it only takes a few fraudulent or misdirected cases to stall a court for hundreds of other legitimate bankruptcy filings. Federal bankruptcy filings per judgeship have increased by 71 percent from 2,998 in 1992 to 5,130 in 2003; and it represents the largest case load in our Federal court system. This creates a backlog that slows down the process for those really in need of bankruptcy protection.

Bankruptcy reform provisions found in S. 256 include, but are not limited to: abuse prevention so debtors who have committed crimes of violence or engaged in drug trafficking are no longer able to use bankruptcy to hide their finances;

Needs-based credentials, where if a debtor has the ability to partially repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing;

Spousal and child support protections to help single parents and their children by closing a loophole used by some spouses currently avoiding their child support responsibilities. This would put child support and alimony payments as a first priority, ahead of credit card debt and attorney's fees. Child support and alimony payments are currently seventh in the priority list of payments;

Closing the mansion loophole require a debtor to live in a State for at least 2 years before he or she can claim that State's homestead exemption. The current requirement is 91 days, allowing some debtors to shield themselves from creditors by putting all of their equity into their homes;

Debtor protections requiring potential debtors to receive credit counseling before they can be eligible for bankruptcy relief, allowing them to make an informed choice about bankruptcy considering all alternatives and consequences;

Further, small business protections to defend against needless bankruptcy lawsuits. Under current law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid by a firm that later files for bankruptcy protection;

Additionally, family farm relief by doubling debt eligibility for chapter 12 filing, allowing periodic inflation adjustment of this debt, and lowering the required percentage of a farmer's income that must be derived from farming operations.

There are business privacy protections to prohibit the disclosure of names of a debtor's minor children with privileged information kept in a nonpublic record. Current law allows nearly every item of information supplied by a debtor in connection with his or her bankruptcy case to be made available to the public.

S. 256 passed the Senate with a clear 74 to 25 majority. The House judiciary markup on March 16 included rollcall votes on 11 amendments. The reforms included in this legislation will be very beneficial to our society without ignoring the need of those suffering financial uncertainty. This legislation deserves a clean up-or-down vote. Mr. Speaker, I ask my colleagues to support this rule and pass S. 256 bankruptcy reform.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for yielding me the time.

Before yielding myself such time as I may consume, I yield to the distinguished gentleman from California (Mr. STARK) for a unanimous consent request.

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

Mr. STARK. Mr. Speaker, I rise in strenuous opposition to this unfair bill.

Mr. Speaker, I rise in strong opposition to S. 256. This bankruptcy bill is touted as reform, but it is actually a wolf in sheep's clothing intended to allow credit card companies and other lenders to gouge consumers when they are most vulnerable.

Republicans are giving this gift to big credit card companies at a time when many Americans are faced with uncertain job stability, retirement security, and health coverage. In fact, 90% of all bankruptcies are filed due to the common financial emergency of a lost job or lack of medical coverage. This bill makes it harder for working families to seek shelter from these devastating and unavoidable expenses.

The Wall Street Journal recently featured the case of a constituent in my district. Crystal Herndon, a single mom in Haywood, California, earns $15 an hour. Ms. Herndon got sick with pneumonia, causing her to miss six weeks of work and rack up over $5,000 in medical bills. These unforeseen expenses caused her to fall behind on other financial obligations, and before she knew it she was simply unable to make ends meet. Bankruptcy protection was the only way out for Ms. Herndon and her family. It's hard to see the abuse in real instances of need such as these, especially when many Americans live paycheck to paycheck.

Sadly Crystal Herndon is not the only worker to be forced into bankruptcy due to unavoidable medical expenses. According to a recent Harvard University research study 2 million Americans, including filers and their dependents, face the double jeopardy of illness and bankruptcy each year. Most of these medically bankrupt are middle-class homeowners with responsible jobs and health insurance coverage. Once illness strikes, high copayments, deductibles, exclusions from coverage, and other loopholes quickly overwhelm these families' budgets. Loss of income and health insurance often deepen this financial crisis when a breadwinner becomes too sick to work.

To add insult to injury, consumers like Crystal Herndon will potentially face an avalanche of litigation that they can't afford as a result of this bill. The bill requires the debtor in some cases to have to challenge big corporate lenders in court to prove they are eligible to seek relief under Chapter 7 of the bankruptcy code. In addition, this bill also allows creditors to threaten debtors with costly ligitation that will force many families to needlessly give up their legal rights.

In their continuing compassion, the Republicans have crafted this so-called reform so that a parent seeking child support from a bankrupt spouse will have to fight it out with creditors in order to receive payment. Meanwhile, this bill makes it easier for those seeking bankruptcy protection to lose their homes or be evicted by the landlords. Yet, those with million dollar mansions will be able to keep their homes even while seeking the same protection under the law. Nothing like a fair shake for America's working families.

Finally, Mr. Speaker, with all of the perks they've awarded to the big credit card companies, Republicans have done nothing to ensure that they are held accountable for their role in this consumer crisis. There is nothing is this bill that stops the abusive, predatory lending that lands too many Americans in bankruptcy in the first place.

Bankruptcy has always been about giving a fresh start to those who have fallen on hard times. The link between illness, job loss, and health insurance is a harsh reality in our country today. It is morally reprehensible to suggest that we exploit medical tragedies befalling honest, hardworking Americans in order to grant the wishes of the credit card companies.

I urge my colleagues to vote down this merciless legislation. Now is not the time to turn the tables on America's working families. Vote no on S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to oppose this closed rule and S. 256. Once again, the majority has squelched debate on a controversial piece of legislation for no legitimate reason.

More than 35 Democratic amendments were offered in the Rules Committee yesterday. Yet none have been made in order. Why? There is no reason for limiting the debate in this manner.

The House came into session on Tuesday and Members will leave town later this afternoon after just 2 days of work. Even more, there was only one other bill of substance before the House this week. The time to debate this bill and its offered amendments is available. The willingness to conduct meaningful business, however, is the missing ingredient. A 1-hour debate on legislation containing such sweeping reforms is not the way to conduct the people's business.

The argument will be made that this has been 9 years in the making. But a lot of this measure has been overcome by time, and that will be discussed by others later.

I am particularly disappointed that an amendment I offered is not being allowed to come before this body for consideration. My amendment seeks to prevent the very bankruptcies that are

causing this Congress so much consternation and is germane to the discussion. It requires credit card companies to preserve a customer's interest rate prior to incurring medical expenses if the customer is unable to pay off the full medical expenses on time. It also prohibits hospitals from reporting delinquent patients for 5 years, provided that the patient is paying 20 percent of his or her monthly mandated medical expenses.

All the information we have available suggests that medical bills are the second leading cause of personal bankruptcy in the United States. It is, in my opinion, hypocritical to prevent debate on an amendment that could ameliorate some of the issues facing this bankruptcy reform legislation. Is not the whole point of this bill to make bankruptcy less frequent? If Members of Congress have ideas about how to accomplish that, should they not be heard?

Many other Members sought to introduce amendments, but have also been denied their opportunity to be heard. These amendments could have improved this legislation.

For example, the gentleman from Virginia (Mr. SCOTT) offered an amendment to exempt from the means test provision of debtors who have business losses incurred by a spouse who has died or deserted the debtor.

The gentleman from California (Mr. FILNER) offered an amendment that would exempt victims of identity theft. And the ranking member of the Rules Committee, the gentlewoman from New York (Ms. SLAUGHTER), offered an amendment that imposes restrictions on issuing credit cards to college students. But none of those amendments, or the 31 others, will be debated today because the rule on this bill is closed.

At this point, Mr. Speaker, I will insert a list of all 35 amendments which the Republican majority has blocked from being considered in the CONGRESSIONAL RECORD.

AMENDMENTS SUBMITTED TO THE RULES COMMITTEE FOR S. 256 AND DENIED CONSIDERATION BY THE RULE (H. RES. 211)

1) Emanuel/Delahunt/Dingell—prevents debtors from shielding their funds from bankruptcy liquidation through so-called ''asset protection trusts;''

2) Filner—exempts disabled veterans from the bill's means test;

3) Filner—exempts from the bill's means test consumers who are victimized by identity theft;

4) Inslee—exempts from the bill's means test consumers whose debts are the result of serious medical problems;

5) Delahunt—requires debtor corporations to file for bankruptcy where their principal place of business is located;

6) Sanders—establishes a ''usury rate'' for credit card companies, above which credit card companies cannot charge consumers;

7) Sanders—caps fees credit card companies can impose on consumers at $15;

8) Sanders—prohibits credit card companies from changing interest rates based on changes in consumers' credit information;

9) Sanders—prohibits credit card companies from raising interest rates based on consumer credit reports;

10) Ruppersberger—requires credit card solicitations to be accompanied by a brochure explaining the consequences of the irresponsible use of credit;

11) Schiff—exempts from the bill's means test consumers who are victimized by identity theft, if at least 51% of the creditor claims against them are due to identity theft;

12) Lofgren—exempts from the bill's means test 1) families facing bankruptcy due to a serious medical hardship that drains at least 50% of their yearly income, and 2) families who lose at least one month of needed pay or alimony due to illness;

13) Lofgren—exempt from the bill's means test a single parent who failed to receive child or spousal support totaling more than 50% of her or his household income;

14) Scott (VA)—exempts from the bill's means test provisions: 1) debtors who have business losses incurred by a spouse who has died or deserted the debtor 2) debtors who have had serious illness in their family and 3) debtors who have been laid off;

15) Scott (VA)—exempts from the bill's means test provisions debtors who have business losses incurred by a spouse who has died or deserted the debtor;

16) Scott (VA)—exempts from the bill's means test provisions debtors who have had serious illness in their family;

17) Scott (VA)—exempts from the bill's means test provisions debtors who have been laid off from their jobs through no fault of their own;

18) Nadler—sunsets the bill after 2 years;

19) Watt—prohibits annual credit card rates higher than 75%;

20) Watt—includes the costs of college in the calculation of debtor's monthly expense;

21) Ruppersberger—exempts from the bill's means test debtors who have declared bankruptcy due to high medical expenses;

22) Hastings (FL)—prevents credit card companies from increasing rates on consumers who use their credit cards to pay for extraordinary medical expenses; also prevents hospitals from generating negative credit information on consumers who are paying their bills in good faith;

23) Meehan—Exempts from the means test disabled veterans whose indebtedness occurred primarily as a result of an injury or disability resulting from active duty or homeland defense activities; closes a loophole in S. 256, which exempts only disabled veterans whose indebtedness occurs primarily while on active duty while failing to exempt disabled veterans whose indebtedness occurs after they have left active duty;

24) Jackson Lee—makes debts arising out of state sex offenses non-dischargeable in bankruptcy proceedings;

25) Jackson Lee—clarifies Congress' intent that nuclear liabilities be covered by the Price-Anderson Act, and not by bankruptcy laws;

26) Jackson Lee—makes debts arising out of penalties imposed on businesses for false tobacco claims non-dischargeable;

27) Jackson Lee—strikes the bill's means test provision;

28) Woolsey—requires credit counseling agencies to provide free services to recent veterans of the military who served in combat zones;

29) Slaughter—requires credit card companies to determine, before they approve a credit card, whether a student applicant has the financial means to pay off a credit card balance; it restricts the credit limit to minimum balances if the student has no independent income; and it requires parental approval for credit limit increases in the event that a parent cosigns the account;

30) Slaughter—applies the highest median income of any county or Metropolitan Statistical Area in the state to all residents of the state petitioning for bankruptcy protection;

31) Millender-McDonald—provides the bankruptcy courts a higher percentage of the fees collected when a debtor files for bankruptcy;

32) Maloney—ensures that debtors emerging from bankruptcy make child credit payments first, before payments on credit card debt. The current version of the bill does not ensure that child support payments will have priority over the other types of unsecured debts, such as credit card debt;

33) Meehan and Berman—provides a modest homestead exemption for people who have suffered a major illness or injury;

34) Jackson Lee—provides additional protections to debtors who are the victims of identity theft;

35) Jackson Lee—increases the means test limit on parochial school tuition expenses from $1,500 to $3,000, so that families Chapter 13 bankruptcy can keep their children in schools that conform to their deeply held religious beliefs.

Mr. Speaker, the House has adopted a new modus operandi. We saw it earlier this year with the class action bill, and we are seeing it again today.

It seems that if the Republican leadership deems legislation important, and that is their prerogative, it is willing to push through the other body's version without the opportunity for debate here in the people's House on any amendments. This new method does a great disservice to the people of this Nation. Even more, it stops Members, Democrats and Republican, from serving as thoughtful, effective legislators.

The House of Representatives is the people's House. The Founding Fathers envisioned a forum for lively debate on the issues of the day, not the controlled steering of selected legislation with no opportunity for meaningful change.

What also concerns me is the unworkable means test contained in this legislation. I am greatly disturbed, as I know all the residents of south Florida will be, that this means test includes disaster assistance as a source of revenue.

People forced into dire financial circumstances through natural disasters should find bankruptcy a source of relief. Considering disaster assistance as a source of revenue adds insult to injury and contradicts the government's efforts to help people get back on their feet.

This legislation, masquerading as protection against bankruptcy abuse, is really a protection for credit card companies and their predatory lending practices. This legislation does not protect the American people. This legislation protects the credit industry at the expense of the American people.

Increasingly, credit card companies market their product to riskier consumers, and now they want the Congress to protect them from the losses that are the foreseeable result of this ill-sighted business strategy. Why are we not debating legislation that would address those practices, instead of eviscerating a crucial safety net that Americans rely on when all else fails?

Mr. Speaker, should it pass, this bill will severely curtail the ability of Americans to obtain relief from bankruptcy without solving any of its underlying causes. Medical bills, unemployment, and predatory lending practices are at the root of this problem. In the long run, the net effect of this legislation will drive more Americans deeper into financial crisis and weaken our social structure and the Nation's economy.

I will not, and cannot, support such an attack on American consumers. I urge my colleagues to vote ''no'' on this closed rule and ''no'' on S. 256.

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

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

I want to point out, Mr. Speaker, to the gentleman from Florida that medical expenses are specifically covered in the bill, and all other extenuating circumstances are covered in section 102 of the bill allowing judicial latitude.

At this point, I would like to yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Judiciary Committee.

□ 1045

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in support of the rule for consideration of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

As we now consider this rule, and the legislation later today, I believe it is particularly important to keep in mind bankruptcy reform's extensive deliberative history before the Committee on Rules, the Committee on the Judiciary, and both bodies of Congress, which I would like to briefly summarize.

First, the bill represents the culmination of nearly 8 years of intense and detailed congressional consideration. The House, for example, has passed prior iterations of this legislation on eight separate occasions. Likewise, the other body has repeatedly registered its strong support for bankruptcy reform. Just last month, the bill passed there 74 to 25, marking the fifth time that body has overwhelmingly adopted bankruptcy reform legislation since 1998.

Second, S. 256 has benefited immensely from an extensive hearing and amendment process, as well as meaningful bipartisan and bicameral negotiations. Over the past four Congresses, the Committee on the Judiciary has held 18 hearings on the need for bankruptcy reform, 11 of which focused on S. 256's predecessors. The Senate Judiciary Committee likewise has held 11 hearings on bankruptcy reform, including a hearing held earlier this year.

In the 105th Congress, 4 days were devoted to the Committee on the Judiciary's markup of bankruptcy reform legislation.

In the 106th Congress alone, the Committee on the Judiciary entertained 59 amendments over the course of a 5-day markup on bankruptcy reform legislation, which included 29 recorded votes. On the floor, 11 more amendments were considered.

In the 107th Congress, the Committee on the Judiciary considered 18 amendments during the course of its markup of bankruptcy reform legislation, and the House, thereafter, considered five amendments.

In the last Congress, the Committee on the Judiciary entertained nine amendments to the bill, and five amendments were considered on the House floor. Also in the last Congress, the Committee on Rules made two amendments in order in connection with a similar bill, addressing bankruptcy reform, which was considered on the floor.

Last month, the Committee on the Judiciary entertained 23 more amendments, each of which has been soundly defeated.

Mr. Speaker, I have over here the paper record of the House consideration of bankruptcy reform legislation over the last four Congresses. Here's the committee report on this bill, over 500 pages long. We have a copy of the House version of the bill, which is over 500 pages long. We have the committee report from 2003. We have a conference report from the 107th Congress. We have a committee report from the 107th Congress. We have a committee report from the 106th Congress. We have a committee report earlier in the 106th Congress, one from the 105th Congress, and then we have a committee report from the 105th Congress on the House side. All of these are debates in the CONGRESSIONAL RECORD when this bill has come up, and we have had conference reports filed, amendments filed, original bills filed.

There has been plenty of process on this legislation. The time to pass it is now, and that is why this rule is coming up in the way it is structured the way it is.

Mr. Speaker, I thank the gentleman for yielding again for the time.

Mr. Speaker, I rise in support of this rule for consideration of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." S. 256 consists of a comprehensive package of reform measures that will improve bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system. It will also ensure that the system is fair for both debtors and creditors.

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Third, it must be remembered that S. 256 is a result of extensive bipartisan and bicameral negotiation and compromise. For example, conferees during the 106th Congress spent nearly 7 months engaged in an informal conference to reconcile differences between the House and Senate passed versions of bankruptcy reform legislation. In the 107th Congress, conferees formally met on three occasions and ultimately agreed—after an 11-month period of negotiations—to a bipartisan conference report. The legislation before us today represents a delicate balance and various compromises that have been struck over the past 7 years.

Fourth, and perhaps most importantly, the need for bankruptcy reform is long-overdue and should not be further delayed. Every day that passes by without these reforms, more abuse and fraud goes undetected.

Mr. Speaker, there simply is no reason to further amend this legislation given its uniquely extensive deliberative record. Those who come to the floor today and complain about lack of

process or the need to further refine this legislation—simply oppose bankruptcy reform. Accordingly, I believe this rule is appropriate, and urge Members to support it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

My respect for the chairman of the Committee on the Judiciary is immense, and he has thrust all of these hearings and all that were in committee where 40 Members of the Committee on the Judiciary had an opportunity to participate.

What we are talking about is today, 35 Members of the House of Representatives, 35 amendments are not being permitted today. So I guess the 40-plus people are the ones who are representing the near 395, 40-plus none for the American people. That would be what I would put on the table from the minority side.

Mr. Speaker, I am delighted to yield 3 minutes to the gentlewoman from California (Ms. MATSUI), our newcomer, who is making her first statement as a Committee on Rules member.

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this rule. We have before us a misguided attempt to reform our bankruptcy system. We have heard cries that this system is being abused and is corrupted; and while there is need for reform, the proposal before us today contains a number of unintended consequences, consequences that would deprive consumers of the protection they deserve, hurt children, hurt families and neglect our veterans.

During the Committee on the Judiciary markup, numerous amendments were offered to correct these provisions, yet amendment after amendment was voted down, not on the merits of the amendments but because there was a backroom deal to move this legislation through the House without any changes. The committee held a sham markup.

Again, in the Committee on Rules, a number of amendments were offered to allow a debate on these issues, but not a single one was made in order today. In certain cases, my Republican colleagues acknowledged the merits of the amendments, but maintained it was simply not the time to address the issue. I have to disagree.

I am particularly disappointed that the very reasonable amendment offered by the gentleman from California (Mr. SCHIFF) was not made in order. The amendment is narrowly tailored to exempt from the means test consumers with 51 percent of their debt caused by someone who stole their identity.

This amendment makes sense. I am sure that most everyone at some time in their life has experienced the frustration of losing their wallet. First, you have to call all the credit card companies to cancel service. Then you may have to close and later reopen your checking account. Then you may have to take a trip down to DMV to get a new driver's license. It is an ordeal.

But these days, losing your wallet can even lead to greater problems. To then realize someone racked up thousands of dollars of debt after stealing your identity is just awful. No one should ever have to pay for a crime someone else committed.

Those on the other side of the aisle say they sympathize with the issue and would like to address this matter at some point in the future; but I ask, why do we not do this now? What are we waiting for? What better place to talk about the rights of bankrupted identity theft victims than in the bankruptcy reform bill?

Just yesterday, an article ran in the New York Times about another security breach potentially leaking Social Security numbers, driver's licenses, and addresses of over 300,000 people.

We all see the headlines. Identity theft poses an enormous financial risk to the average American. No one deserves a bill for someone else's crime, but the Republican majority seems to think so. Their legislation would punish the victims of identity theft, and the refusal to adopt this very simple fix raises real questions about who they are fighting for. I believe this amendment is very timely and appreciate the attention the gentleman from California (Mr. SCHIFF) has brought to this issue.

I know this legislation has been around since 1998, but that does not excuse us from being unresponsive to real issues affecting Americans today.

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

I want to thank the gentleman from Wisconsin, distinguished chairman of the Committee on the Judiciary, for bringing forth those statistics and that stack of documents that he just went over; and I want to add one more statistic to that, and this is that since the 105th Congress, the House and the Senate have passed bankruptcy reform legislation a dozen times, with a vote tally of 2,455 for and 871 against.

To my distinguished colleague from Florida, in regard to the amendment process in the Committee on Rules, my colleague knows that the other side was offered an amendment in the nature of a substitute. That substitute amendment could have included all 35 Democrats, who my colleagues allege were shut out. Every one of those 35 amendments could have been included in an amendment in the nature of a substitute; but apparently they just could not get their act together, did not have an amendment and passed on that opportunity.

In regard to the gentlewoman from California and the concerns about identity theft, opponents of the means test of the bankruptcy legislation have attempted to claim that a debtor should be except from the means test if the debt is related to identity theft. This is a red herring, Mr. Speaker, because consumers who are victims of identity theft do not owe the debts that result from identity theft; and, therefore, it is not an issue addressed by the bankruptcy court.

We all understand the sentiment of trying to help identity theft victims. Amendments related to identity theft, though, are not necessary. They would inadvertently do serious harm to consumers and create a significant potential for fraud and abuse. A consumer who is victimized when an identity thief establishes credit in the consumer's name is not liable for any of the debts incurred by the identity thief. The maximum amount I think is $50, and that is even waived by the credit card companies if it is proved to be fraudulent. Bankruptcy relief is, therefore, not necessary in regard to identity theft.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume before yielding to the distinguished ranking member to respond to my colleague from Georgia by indicating, the last time I looked at the rules, it allowed that individual Members have a right to make amendments, and we are not required to offer a substitute.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my good friend.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for the time.

The rule we are debating, that we have made today is a closed rule which means that the Members of Congress who brought 35 amendments to the Committee on Rules will not have a chance to bring them up.

This closed rule means that the elected representatives of the people will never have the opportunity to consider the amendments and decide for themselves whether or not they would make the bankruptcy bill a better piece of legislation.

I personally think that amendments protecting our men and women returning from military service in Iraq and Afghanistan would be a good idea, and I feel very strongly that the amendment protecting the victims of identity theft from bankruptcy is an important measure that should be debated on the House floor. After all, Americans are and should be very concerned about identity theft. AARP said it is one of the top five issues concerning seniors today.

Just to give my colleagues an idea of how concerned our fellow Americans should be about this, Lexis-Nexis and GM MasterCard are both recovering from wide-scale security breaches which may have placed millions of

Americans at risk for having their identity stolen. In fact, just 2 days ago, Lexis-Nexis identified more than 300,000 Americans that their personal information may have been stolen. In some cases, it will take those people 6 years to get back their identity. It is a very real problem for our country.

But if my colleagues in the majority do not agree that protecting Americans from identity theft is an important issue, why will they not let the body debate it? If they want to, they can always vote against it. That is the way things are supposed to happen here in a democracy. Instead, they have instituted another closed rule and will not allow us to debate the issues.

This is the fifth Congress that we have debated bankruptcy reform, and we have heard that this morning. To be fair, we have not debated this bill under open rules in the past, but we have certainly debated them under rules that allowed amendments.

This chart shows the number of amendments that the Committee on Rules made in order on this bill in every Congress since the 105th, and I insert in the RECORD at this point a list of the rules.

NUMBER OF AMENDMENTS MADE IN ORDER ON BANKRUPTCY BILLS—105TH–109TH CONGRESS

105th Congress (H. Res. 452)—12 amendments made in order.

106th Congress (H. Res. 158)—11 amendments made in order.

107th Congress (H. Res. 71)—6 amendments made in order.

108th Congress (H. Res. 147)—5 amendments made in order.

109th Congress (H. Res. 211)—Closed Rule, 0 amendments made in order.

This chart shows a disturbing pattern, Mr. Speaker, a pattern that has become common practice here in the House.

□ 1100

In every Congress, Republican leaders have allowed fewer and fewer amendments to be debated. We started at 12 amendments in the 105th Congress; and in the 109th Congress, we have a completely closed rule. Zero amendments are in order. There is less and less democracy in this House, and every Congress fewer voices are being heard on the floor.

The Democrats on the Committee on Rules last month issued a report studying the disturbing trend toward less democracy and deliberation in this House. During this last Congress and this closed rule today convinces me we are only getting worse.

So, Mr. Speaker, I say again we have disallowed the amendments that would have let us make this a better bill, a bill that would protect more vulnerable people in this country, including our soldiers who have returned from Iraq, most of those in the National Guard and Reserves, many of whom are losing their houses because they were called back time and again and were to able to maintain their houses. It is a disgrace we were not allowed to bring that amendment to the floor.

Mr. GINGREY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I would like to lay to rest the fact that we have not had a full and complete debate on this.

This year, on March 16, the Committee on the Judiciary had a full markup on this bill. Anybody who wished to offer amendments was allowed to do so. Our committee publishes the complete transcript of markups as a part of the committee report. This transcript goes on for 160 pages in the committee report, which shows that everybody had an opportunity to speak their peace. There were 23 amendments that were offered, and all of them were voted down by overwhelming margins.

Now, amending this bill is what the people who wish no bankruptcy reform have in mind because they know the other body has had difficulty in finding time to debate this bill and vote cloture. The gentlewoman from New York (Ms. SLAUGHTER), whom I greatly respect, has voted against this bill every time it has come up when she has cast a vote in a rollcall. Much of the complaints we are going to be hearing are coming from Members who wish to sink this bill through amendments. They have never supported it in the past. They are against it even if it were amended, and that is why the rule is the way it is.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, while some who file bankruptcy have been financially irresponsible, the overwhelming majority of those who file do so as a result of divorce, major illness, or job loss. Half of those who go into bankruptcy do so because of illness, and most of them had health insurance but still could not pay their bills.

If the purpose of the legislation is to try to deal with those who abuse credit, we ought to be able to distinguish them from the hard-working Americans who unfortunately become ill, those who have an unforeseen loss of a job, or whose spouses desert them after a business failure.

Mr. Speaker, in addition to those who get sick or lose their job, this bill will also hurt small business entrepreneurs. They go into business and consider a risk-benefit ratio that includes the possibility of making a lot of money, but also includes the possibility of losing everything and ending up in bankruptcy. With the passage of this legislation, those entrepreneurs and their families will risk not only losing everything but also being denied a fresh start if the business goes under. They will be stripped down to essentials like food and rent for 5 years, and that is average rent for the area, not what they may have been living in.

Finally, we ought to consider the impact on society of increasing the number of people who conclude that they have nothing to lose. It is ironic that the last time we debated bankruptcy reform on the floor of the House, a farmer had driven his tractor into the pond near the Washington Monument, tying up traffic for a long time. He was quoted as saying, ''I am broke. I am busted. I have the rest of my life to stay here.''

People who feel they have nothing to lose can become dangerous to society. Denying bankruptcy protection to people who need a fresh start will only increase the number of people in our community who feel they have nothing to lose.

This legislation does not differentiate between those who abuse the system and those who deserve a fresh start. This rule does not allow amendments to fix the bill; and, therefore, the rule should be defeated.

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

In the 105th Congress, H.R. 3150, bankruptcy reform, passed 306–118.

In the 106th Congress, H.R. 8333 passed the House, 313–108.

In the 107th Congress, H.R. 333 passed the House 306–108.

In the 108th Congress, H.R. 975 passed the House 315–113.

The gentleman from Virginia (Mr. SCOTT) was not one of those voting in the affirmative on any of those occasions, but I want to point out to the gentleman in regard to his concern over medical and health-related expenses for a debtor, spouse, and dependents, on line 23, page 8, continuing through line 10 page 9, this covers the treatment of medical expenses for the debtor, spouse of the debtor, and dependents of the debtor. It expressly includes not just actual medical expenses but expenses for health insurances, disability insurance, and health savings accounts.

Mr. Speaker, put another way, contrary to misrepresentations by opponents, the needs-based test not only takes into account the full range of medical expenses by the debtors, but it also covers the spouse and dependents. This is just one of three provisions for a member of the household or immediate family. The provision includes for the monthly expense of the debtor, expenses incurred for the care and support of an elderly, chronically ill or disabled member of the debtor's immediate family. This includes parents, grandparents, siblings, children and grandchildren of the debtor, among others.

So medical in any situation, Mr. Speaker, medical or otherwise, no debtor is denied access to bankruptcy relief. All S. 256 says is that, in a limited range of cases, a debtor with meaningful capacity to repay may have to file in chapter 13 as opposed to chapter 7. In no case is a debtor denied access to the bankruptcy system.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, the chairman of the Committee on the Judiciary is correct when he says 8 years. I dare say we could spend another 8 years, but given the quality of this bill, given the reality that it imposes no responsibility whatsoever on the credit

card industry, naturally we will be opposed. Responsibility. We hear personal responsibility. What about corporate responsibility? Responsibility is a two-way street.

To get a fair and balanced bill, we need amendments. We need amendments like the one that the gentleman from North Carolina and myself filed which would have limited the interest on credit cards to 75 percent.

Sure, that might have shifted, if you will, some of us to support the bill. But, no, the credit card industry bought and paid for this legislation. Somewhere north of $40 million was part of that effort. Let us not kid ourselves. This bill was written for and by the credit card industry. It has nothing to do with the consumer. But that is why we needed amendments, to make it fair and to make it balanced. Let us not just use those words.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, this is a great day. Not only are we going to be able to see the Nationals play the first home game in 34 years, but we are going to finally pass bankruptcy reform legislation that can get to the President's desk and be signed.

Also, tomorrow many of us are going to be paying our taxes. We have constituents who are complaining justifiably about the high cost of gasoline.

On average, passage of this legislation will save a family of four $400 a year, and $400 a year is a very important amount of money for an awful lot of people in this country, and that is the price that they are paying because of the abuse that we have seen of our bankruptcy law that has been going on for years and years and years.

I happen to believe that it is essential that we provide that $400 in relief to the American people just as quickly as we can. We know, as the gentleman from Wisconsin (Mr. SENSENBRENNER) has said, and I congratulate the gentleman for all of the effort that he has put into this, that we for years and years and years have been going through the amendment process. We have had a wide range of concerns brought to the forefront, and we have been able to address them. I believe that we are doing the right thing by moving ahead with this measure.

Mr. Speaker, any Member who votes no on this rule is voting against bankruptcy reform. They are voting against bankruptcy reform. Why? Because it is true 35 amendments were submitted to us in the Committee on Rules. We made it very clear that one of the things that we offered when we came to majority status was the chance to give the minority an opportunity to offer a substitute. The gentleman from Wisconsin (Chairman SENSENBRENNER) came before the Committee on Rules and made it very clear to us. He requested a closed or a modified closed rule.

Let me say, a modified closed rule means that the minority is offered a chance at providing a substitute, cobbling together a package that in fact is an alternative to the measure that we have brought forward.

The minority had an opportunity to do that. What did they choose to do? Members of the minority did not come forward with a substitute. They chose to offer what I describe as cut-and-bite amendments, going through these issues and amending and amending and amending.

Mr. Speaker, we would have made in order a substitute had they given it to us.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I recall yesterday when the death tax repeal was on the floor. It was a similar rule, and the minority was offered a chance to offer a substitute. They offered a substitute which was voted on and debated in the House of Representatives. But that rule passed by voice vote. So the rule under which we considered the death tax repeal yesterday is the same type of rule that we are considering today, except that the minority on this bill decided not to offer a constructive alternative substitute.

Mr. DREIER. Mr. Speaker, reclaiming my time, the chairman of the Committee on the Judiciary is absolutely right. We reported out a modified closed rule that provided the gentleman from North Dakota (Mr. POMEROY) an opportunity to not only offer his substitute, but he could have offered a motion to recommit. So two bites at the apple. The exact same opportunity existed on this bill which has gone through Congress after Congress with an excess of 300 votes in the past.

We said a substitute would have been made in order if it had been submitted to us in the Committee on Rules.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, the gentleman made a statement, if I understand correctly, that passage of this proposal before us today would translate into a savings of $400 for each family in America.

Mr. DREIER. Mr. Speaker, that is absolutely right. If you look at the cost that exists today because of abuse of bankruptcy law, the abusive filings of bankruptcy, there is, on average, for a family of four of $400 per year.

□ 1115

Mr. DELAHUNT. If the gentleman will yield further, the $400 would actually go back to the American family? Is that what the chairman is suggesting?

Mr. DREIER. If I could reclaim my time, what I am suggesting is that because of abuse of bankruptcy filings that take place today, that is a cost that is imposed on American consumers to the average family of four of in excess of $400.

That is the reason it is absolutely essential, Mr. Speaker, that we pass this legislation.

Mr. DELAHUNT. Will the gentleman yield further?

Mr. DREIER. I have yielded three times. If I could finish my statement, I would like to. We have other people who would like to participate. I know that my dear friend from Florida (Mr. HASTINGS) will be more than happy to yield further time to the gentleman from Massachusetts.

Mr. Speaker, we have been waiting for years and years and years to get to the point where we could get a measure to the desk of the President of the United States so that he can sign it, so that we can deal with this issue and finally bring about responsible reform of our bankruptcy law.

We happen to believe very passionately that people should be accountable for their actions. We do not want anyone to be deprived of access to file for bankruptcy, but we know full well that this has been abused for such a long period of time. That is why we are here today and that is why I am convinced, Mr. Speaker, that even though we will see opposition to this rule, at the end of the day, we will see very strong bipartisan support to reform our bankruptcy law.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, with that generous yielding, I would like to yield to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I would like to respond very quickly. If medical expenses wipe you out and you cannot pay them, under this bill you cannot get into chapter 7 if you can pay $166 a month on your bills, however much they are. There could be hundreds of thousands of dollars that you could never pay.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman.

Mr. Speaker, I rise today to answer my good friend, the chairman of the Committee on Rules, to simply say the reason why a substitute was not offered is because the bankruptcy code as it now stands addresses the needs of the American people. It is interesting that the Republicans want to tell us what kind of amendment to offer when we had 35 amendments that would have protected the American people.

Mr. Speaker, I am outraged because the bankruptcy bill stabs the American people in the back. The reason why I say that is because we have a bankruptcy code that allows for the discretion of the judiciary in the bankruptcy courts to be able to determine whether your case is frivolous.

But now we have put in place what we call a means test which indicates that hardworking American families, middle-class families who have faced catastrophic illnesses, divorce, loss of job in this horrible economy, these individuals will be barred from entering the bankruptcy court because they do not meet the IRS guidelines. Who wants to meet the IRS guidelines? We already know what the Internal Revenue Service will do to you. All we wanted to do is to give more leeway.

If you listen to Professor Elizabeth Warren of Harvard University, she will tell you that the time for the bankruptcy bill has long passed. It is an 8-year-old bill that was written more than 8 years ago. Now we find that more consumer bankruptcies have declined. There are less consumer bankruptcies. But if you look at what the President is going to do with Social Security and take so much money out of our economy and break the American people, you are going to see an upsurge. But what you are going to see is the American people, because of this bankruptcy bill, losing their house, pulling their children out of school, not being able to make ends meet. It is an outrage. This rule should be defeated because the American people are being stabbed in the back. It is a disgrace.

I ask for a ''no'' vote on the rule.

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

In response to the gentlewoman from Texas, Mr. Speaker, a substitute amendment was offered in every other Congress that bankruptcy reform was considered. Every other Congress in which bankruptcy reform was considered, the minority submitted a substitute amendment. Why not now? I have asked that question several times, and I still have no answer.

In regard to health care expenses, and I am reading from a March 29, 2005, CRS report for Congress titled ''Treatment of Health Care Expenses under the Bankruptcy Abuse Prevention and Consumer Protection Act'':

''Conclusion. Health care expenses will generally be considered in one of two contexts in a bankruptcy filing. Significant expenses incurred prior to the bankruptcy filing may be calculated as unsecured claims; if the debtor cannot afford to pay 25 percent of unsecured claims or $100 a month, the debtor may be eligible to file under chapter 7.

''Ongoing health care expenses and health insurance premiums may be deducted from the debtor's monthly income. Factoring in these expenses may also reduce the debtor's disposable income under the means test.''

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this unfair, undemocratic closed rule and to the underlying bankruptcy bill. This lopsided bill will make it harder for families and seniors with debt problems arising from high medical expenses, job loss, divorce, or other financial hardships to address their problems while doing nothing to rein in the credit card companies whose practices have led to much of the rise in bankruptcies.

S. 256 presumes that bankruptcy filers are simply bankruptcy abusers looking to game the system and avoid paying their bills, ignoring the clear evidence that the overwhelming majority of people in bankruptcy are in financial distress because of job loss, medical expense, divorce, or a combination of these causes.

Mr. Speaker, an important and controversial bill like the bankruptcy bill deserves a real debate. Members deserve the opportunity to consider a wide range of amendments. For the Republican leadership and the Republican members of the Committee on Rules to propose that we consider a bill that is tilted toward the credit card companies and as complex as this bill is without giving Members any opportunity to amend it on the floor with only 30 minutes per side for general debate is a travesty and a gross abuse of power.

When this bill was in the Committee on the Judiciary, we had a pseudo-markup that lasted all day and was a complete embarrassment and a waste of time for all of the members, for the Republicans would not even consider one amendment, no matter how meritorious or beneficial to the American people, even if the amendment addressed issues not previously considered because of the Republican leadership's insistence on reporting out a clean bill in order to avoid a conference committee.

As a result, important, thoughtful amendments on such subjects as protection on domestic violence victims from eviction, disabled veterans, alimony and child support, exemptions for medical emergencies and job loss, underage credit card lending, and a homestead exemption for seniors, predatory lending and payday loans all were rejected by the Committee on the Judiciary.

Shame on you Republicans.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 1 minute to my friend, the gentlewoman from California (Ms. LEE).

Ms. LEE. I thank the gentleman for yielding me this time and for his leadership.

Mr. Speaker, I rise in opposition to this rule and to this morally bankrupt bill that puts corporate greed over fairness for ordinary folks. This bill takes the phrase ''kick them when they are down'' to a whole new level. What about the fact that half of the people who file for bankruptcy protection are forced to do so because of high medical costs, loss of a job, or scam loan sharks? This bill would say to these people, the answer is, of course, too bad.

Make no mistake, Mr. Speaker, this bill is a big-time corporate payoff that was drafted with one overriding goal in mind, that is, profits, profits, profits.

I am all for curbing abuses in bankruptcy and would suggest that we start by closing bankruptcy loopholes for millionaires and taking steps to address predatory lending and payday loans rather than a one-sided, harsh industry payoff. This bill should include real solutions to address the really hard problems fueling the financial difficulties so many in this Nation are facing. We should focus on the true abusers and not the working families that have played by the rules.

Mr. Speaker, we need to have a bankruptcy bill that addresses the real abusers. This is a morally bankrupt bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

The gentlewoman from California brought up the issue about bankruptcy reform harming veterans. In speaking to that, Senate 256 needs-based test includes several safeguards and exceptions for special circumstances, including those of veterans: a specific reference to a debtor who is subject to a call or ordered to active duty in the Armed Forces to the extent that such occurrences substantiate special circumstances.

S. 256 means test has a special exception just for debtors who are disabled veterans if the indebtedness occurred primarily during a period when the debtor was on active duty or performing a homeland security activity. The bill excuses a debtor if he or she is on active military duty in a military combat zone from the mandatory credit counseling and financial management training requirements.

I could go on and on, Mr. Speaker; but we are addressing, as we always have on this side of the aisle, the special needs of our great veterans of this country.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend, the gentlewoman from New York (Mrs. MALONEY).

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

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this rule. There is much that should be law in this bill; but as written, it should not pass. If this bill becomes law, children will have to compete for the first time with credit card companies in State court for the limited assets of debtors emerging from the bankruptcy process.

I believe that there are many good parts of this bill; but as a mother I came to Congress to protect the rights of children, not to make their interests second to those of credit card companies. Congress has always insisted that debtors should take care of their children before their credit cards, and we

should not undermine this important family value.

I am a strong supporter of the netting provisions of the bill. These provisions provide for the orderly unwinding of complex financial transactions when one participant becomes insolvent. Alan Greenspan has said these provisions reduce uncertainty for market participants and reduce risk by making it less likely that the default of one financial institution would have a domino effect on others. I support this; and as a New Yorker, I am really concerned that these provisions go into effect to protect the financial sector in the event of another terrorist attack. And I agree we need to build savings.

But these positive aspects of the bill are outweighed by an unacceptable feature that the majority has refused to address, the fact that the bill pits child support claimants against credit card companies in State court for the assets that the debtor has when she or he goes into bankruptcy. In other words, kids will lose.

I offered an amendment to address this, but the Committee on Rules did not make it in order. They did not make other important amendments that would protect victims of medical catastrophes, of identity theft and many others. This is very, very important. The sponsors say that they take care of this, but none of their steps address the new threat created by the bill to protect children from having to fight credit card companies in State court. We have never done this before. We should not leave this as a legacy of this Congress. We can get this right. We should have put children first. We must vote against this rule and the bill.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentlewoman, I have got a letter from the National Child Support Enforcement Association, February 8, 2005, that I will insert for printing in the RECORD.

Let me just read one paragraph, the first and most important:

''The National Child Support Enforcement Association is a membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years, it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid-1990s to reform the bankruptcy system and welcome your introduction of S. 256. The bankruptcy bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy.''

NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION,
Washington, DC, Feb. 8, 2005.

Re: Child Support Provisions in S. 256

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The National Child Support Enforcement Association is the membership organization representing the child support community—a workforce of over 63,000 child support professionals. For the past 5 years it has strongly supported the enactment of bankruptcy reform because the treatment of child support and alimony under present bankruptcy law so desperately needs reform. We applaud your continuing efforts since the mid 1990s to reform the bankruptcy system and welcome your introduction of S. 256. The Bankruptcy Bill, S. 256, like the reform bills of the last three Congresses and the signed conference report of 2002, includes provisions crucial to the collection of child support during bankruptcy.

With each day that passes under current law, countless numbers of children of bankruptcy debtors are subject to immediate interruption of their on-going support payments. In addition, during the lengthy 3 to 5 years duration of consumer bankruptcies as they happen every day under present law, debtors often succeed in significantly delaying or even avoiding repayment of child support and alimony arrearages altogether. Hardest hit by these effects of current bankruptcy law are former recipients of welfare who are owed support arrears but are stuck waiting until the bankruptcy is completed before such debts can be collected. Families who are dependent on obtaining their share of marital property for survival may now find under present bankruptcy law that such debts are discharged. And, worst of all, under present law significant collection tools used to require the payment of current child support needed by the custodial parent to feed and clothe children may be rendered ineffective after a bankruptcy petition is filed. Today, a bankruptcy filing may delay or halt the collection of support debts through the federally mandated earnings withholding and tax refund intercept programs, the license and passport revocation procedures, and the credit reporting mandates.

S. 256 would provide these children with first priority in the collection of support debts, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings for payment of child support, and insure that during the course of a consumer bankruptcy all support owed to the family would be paid, and paid timely. It will allow state court actions involving custody and visitation, dissolution of marriage, and domestic violence to proceed without interference from bankruptcy court litigation.

We, therefore, urge the members of the Conference Committee and the leadership of Congress to enact this important piece of legislation with its long overdue bankruptcy reforms.

Sincerely,

MARGOT BEAN,
President. National Child Support Enforcement Association

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 seconds to the gentlewoman from New York (Mrs. MALONEY) for the purpose of making a unanimous consent request.

Mrs. MALONEY. Mr. Speaker, I request permission to place in the RECORD, in response to this statement, statements by Bar Associations across this country, women's organizations, women's legal defense, asserting what I have said that children are put second to credit card companies.

The material referred to is as follows:

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, March 14, 2005.

Re: Oppose H.R. 685, The Bankruptcy Act of 2005

Hon. JOHN CONYERS, Jr.,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN CONYERS: The National Women's Law Center is writing to urge you to oppose H.R. 685, a bankruptcy bill that is harsh on economically vulnerable women and their families, but that fails to address serious abuses of the bankruptcy system by perpetrators of violence against patients and health care professionals at women's health care clinics.

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy. Contrary to the claims of some proponents of the bill, low- and moderate-income filers—who are disproportionately women—are not protected from most of its harsh provisions, and mothers owed child or spousal support are not protected from increased competition from credit card companies and other commercial creditors during and after bankruptcy that will make it harder for them to collect support.

The bill would make it more difficult for women facing financial crises to regain their economic stability through the bankruptcy process. H.R. 685 would make it harder for women to access the bankruptcy system, because the means test requires additional paperwork of even the poorest filers; harder for women to save their homes, cars, and essential household items through the bankruptcy process; and harder for women to meet their children's needs after bankruptcy because many more debts would survive.

The bill also would put women owed child or spousal support who are bankruptcy creditors at a disadvantage. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up an intensified competition for scarce resources between mothers and children owed support and these commercial creditors during and after bankruptcy. The domestic support provisions in the bill may have been intended to protect the interests of mothers and children; unfortunately, they fail to do so.

Moving child support to first priority among unsecured creditors in Chapter 7 sounds good, but is virtually meaningless; even today, with no means test limiting access to Chapter 7, fewer than four percent of Chapter 7 debtors have anything to distribute to unsecured creditors. In Chapter 13, the bill would require that larger payments be made to many commercial creditors; as a result, payments of past-due child support would have to be made in smaller amounts and over a longer period of time, increasing the risk that child support debts will not be paid in full. And, when the bankruptcy process is over, women and children owed support would face increased competition from commercial creditors. Under current law, child and spousal support are among the few debts that survive bankruptcy; under this bill,

many additional debts would survive. But once the bankruptcy process is over, the priorities that apply during bankruptcy have no meaning or effect. Women and children owed support would be in direct competition with the sophisticated collection departments of commercial creditors whose surviving claims would be increased.

At the same time, the bill fails to address real abuses of the bankruptcy system. Perpetrators of violence against patients and health care professionals at women's health clinics have engaged in concerted efforts to use the bankruptcy system to evade responsibility for their illegal actions. This bill does nothing to curb this abuse.

The bill is profoundly unfair and unbalanced. Unless there are major changes to H.R. 685, we urge you to oppose it.

Very truly yours,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA GREENBERGER,
Co-President.
JOAN ENTMACHER,
Vice President and Director, Family Economic Security.

LEGAL MOMENTUM,
Washington, DC, February 28, 2005.

DEAR SENATOR: Legal Momentum is writing to you today to urge you to oppose S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Legal Momentum is a leading national not-for-profit civil rights organization with a long history of advocating for women's rights and promoting gender equality. Among our major goals is securing economic justice for all. In this regard we have worked to end poverty; improve welfare reform; create affordable, quality childcare and guarantee workplace protections for survivors of domestic violence. The bankruptcy system is another crucial safety net for women, and Legal Momentum is concerned that the changes to the bankruptcy system proposed in S. 256 would be harmful to the economic security of women and families. In addition, the legislation fails to hold perpetrators of violence against workers and patients of women's health care clinics accountable for their actions.

The large majority of women who file for bankruptcy do so because of unemployment, medical bills, divorce, or because they are owed child support by men who file for bankruptcy. And because women are more likely to be caring for dependent children or parents *and* have lower incomes and fewer assets than men, they are more likely to seek bankruptcy as a result of a divorce or a medical problem. In 2001, women represented 39% of households filing for bankruptcy, while men filing independently represented only 29%. Married couples represented 32%. Single mothers are the group most at risk for bankruptcy—in the last 20 years, bankruptcy filings for female-headed households have increased at more than double the rate of bankruptcies in other households. This legislation will make it more difficult for women already struggling to achieve economic independence to access the bankruptcy system. The proposed means test will make filing for bankruptcy more complex, it will be more difficult to keep homes and cars from being repossessed, and even if a bankruptcy is successfully filed, more debts will main.

Even the child support provisions in the legislation will not help women and children. If the parent who owes child support is the debtor, the bill will divert more money to other creditors and allow more non-child support debts to survive bankruptcy. As a result, the custodial parent, usually the mother, will have to compete with other creditors, including credit card companies, for the debtor's limited income.

Legal Momentum is concerned that, unlike in the conference report of last year's bankruptcy legislation, S. 256 does not include a provision to prevent perpetrators of clinic violence from declaring bankruptcy to avoid responsibility for their actions against patients and health care providers. Please include language that would insure that these perpetrators of violence cannot use the bankruptcy system to protect themselves. The pocketbooks of violent offenders are protected, while hardworking women struggling to make ends meet and feed their families are denied access to a system that could help and provide them with hope for the future.

Legal Momentum believes that if S. 256 is enacted, the economic effects on more than 1.2 million women each year will be devastating, and we strongly urge you to oppose the legislation. If you have any questions, please contact Legal Momentum's Policy Office at 202/326–0044.

Sincerely

LISALYN R. JACOBS,
Vice President for Government Relations.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, March 14, 2005.

OPPOSE UNFAIR BANKRUPTCY ''REFORM''

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil rights coalition, we write to express our strong opposition to the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005'' (H.R. 685). We urge you to oppose H.R. 685 because it poses significant concerns for the economic self-sufficiency of all working people in the United States and will cause substantial financial inequities in the process.

The issue of bankruptcy reform is of profound concern to LCCR because, as a general matter, disadvantaged groups in our society disproportionately find themselves in bankruptcy courts as a result of economic discrimination in its many forms. For example:

Divorced women are 300 percent more likely than single or married women to find themselves in bankruptcy court following the cumulative effects of lower wages, reduced access to health insurance, the devastating consequences of divorce, and the disproportionate financial strain of rearing children alone;

Since 1991, the number of older Americans filing for bankruptcy has grown by more than 120 percent. This age group tends to file after being pushed out of jobs and encountering discrimination in hiring, which could result in loss of health insurance, or victimization by credit scams or home improvement frauds that put their homes and security at risk, and;

African American and Hispanic American homeowners are 500 percent more likely than white homeowners to find themselves in bankruptcy court largely due to discrimination in home mortgage lending and housing purchases, and to inequalities in hiring opportunities, wages, and health insurance coverage.

H.R. 685 proposes a number of changes in current bankruptcy law, and supporters claim that enactment is thereby necessary to stop abuse of bankruptcy laws. Yet a majority of those who file are working families who are not abusing the system; instead, they have experienced financial catastrophe. H.R. 685 would make starting over virtually impossible.

In addition, hundreds of thousands of women and children who are owed child support or alimony would be harmed under H.R. 685, as it forces them to compete with credit card issuers and therefore would make it less likely that support payments will be made to those in need. H.R. 685 will also make it much more difficult for businesses to reorganize, thereby forcing them into bankruptcy and eliminating much needed jobs.

H.R. 685 also fails to address one of the key reasons that bankruptcy filings have increased in recent years—a reason that is the willful doing of many of the financial institutions that are lobbying in support of the bill—the aggressive marketing of credit cards to our most financially vulnerable citizens, such as women, students, seniors, and the working poor. According to a recent article in the Washington Post, credit card companies continue to offer credit in record amounts, in an aggressive campaign to saddle more Americans with debts. (Kathleen Day, Tighter Bankruptcy Law Favored, Washington Post, February 11, 2005 at A–05). Yet these same companies have steadfastly resisted even the most modest reforms to help consumers avoid placing themselves in financial jeopardy in the first place, such as requiring clearer disclosure about late payment fees, interest rates, and minimum payments.

LCCR has opposed bankruptcy reform proposals similar to H.R. 685 every year since 1998. Sadly, bankruptcy reform proponents are now pushing legislation that is every bit as flawed as previous legislation and, given today's slow economy, would lead to even more inequitable results. We strongly urge you to reject H.R. 685 because it would radically alter the bankruptcy system in a way that imposes hardships particularly on the most vulnerable among us.

Thank you for your consideration. If you have any questions, please feel free to contact Rob Randhava, LCCR Counsel, at (202) 466–6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

WRITTEN STATEMENT OF MARSHALL WOLF, MAY 13, 1998, ON BEHALF OF THE GOVERNING COUNCIL OF THE FAMILY LAW SECTION OF THE AMERICAN BAR ASSOCIATION

* * * earlier version of this legislation concluded that ''child support and credit card obligations could be 'pitted against' one another. . . . Both the domestic creditor and the commercial credit card creditor could pursue the debtor and attempt to collect from post-petition assets, but not in the bankruptcy court.''

Outside of the bankruptcy court is precisely the arena where sophisticated credit card companies have the greatest advantages. While federal bankruptcy court enforces a strict set of priority and payment rules generally seeking to provide equal treatment of creditors with similar legal rights, state law collection is far more akin to ''survival of the fittest.'' Whichever creditor engages in the most aggressive tactic—be it through repeated collection demands and letters, cutting off access to future credit, garnishment of wages or foreclose on assets—is most likely to be repaid. As Marshall Wolf has written on behalf of the Governing Counsel of the Family Law Section of the American Bar Association, ''if credit card debt is added to the current list of items that are now not dischargeable after a bankruptcy of a support payer, the alimony and child support recipient will be forced to compete with the well organized, well financed, and obscenely profitable credit card companies to receive payments from the limited income of the poor guy who just went through a bankruptcy. It is not a fair fight and it is one that women and children who rely on support will lose.''

It is for these reasons that groups concerned with the payment of alimony and child support have expressed their strong opposition to the bill and its predecessors. Professor Karen Gross of New York Law School stated succinctly that ''the proposed legislation does not live up to its billing; it fails to protect women and children adequately.'' Joan Entmacher, on behalf of the National Women's Law Center, testified that ''the child support provisions of the bill fail to ensure that the increased rights the bill would give to commercial creditors do not come at the expense of families owed support.''

Assertions by the legislation's supporters that any disadvantages to women and children under S. 256 are offset by supposedly pro-child support provisions are not persuasive. It is useful to recall the context in which these provisions were added. In the 105th Congress, the bill's proponents adamantly denied that the bill created any problems with regard to alimony and child support. Although the proponents have now changed course, the child support and alimony provisions included do not respond to the provisions in the bill causing the problem—namely the provisions limiting the ability of struggling, single mothers to file for bankruptcy; enhancing the bankruptcy and post-bankruptcy status of credit card debt; and making it more difficult for debtors * * *

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MARCH 11, 2005.

Re The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256).

Hon. F. JAMES SENSENBRENNER,

Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS, Jr.,

Ranking Democratic Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

We are professors of bankruptcy and commercial law. We are writing with regard to The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (H.R. 685/S. 256)(the ''bill''). We have been following the bankruptcy reform process for the last eight years with keen interest. The 110 undersigned professors come from every region of the country and from all major political parties. We are not members of a partisan, organized group. Our exclusive interest is to seek the enactment of a fair, just and efficient bankruptcy law. Many of us have written before to express our concerns about earlier versions of this legislation, and we write again as yet another version of the bill comes before you. The bill is deeply flawed, and will harm small businesses, the elderly, and families with children. We hope the House of Representatives will not act on it.

It is a stark fact that the bankruptcy filing rate has slightly more than doubled during the last decade, and that last year approximately 1.6 million households filed for bankruptcy. The bill's sponsors view this increase as a product of abuse of bankruptcy by people who would otherwise be in a position to pay their debts. Bankruptcy, the bill's sponsor says, has become a system ''where deadbeats can get out of paying their debt scott-free while honest Americans who play by the rules have to foot the bill.''

We disagree. The bankruptcy filing rate is a symptom. It is not the disease. Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. In our view, the fundamental change over the last ten years has been the way that credit is marketed to consumers. Credit card lenders have become more aggressive in marketing their products, and a large, very profitable, market has emerged in subprime lending. Increased risk is part of the business model. Therefore, it should not come as a surprise that as credit is extended to riskier and riskier borrowers, a greater number default when faced with a financial reversal. Nonetheless, consumer lending remains highly profitable, even under current law.

The ability to file for bankruptcy and to receive a fresh start provides crucial aid to families overwhelmed by financial problems. Through the use of a cumbersome, and procrustean means-test, along with dozens of other measures aimed at ''abuse prevention,'' this bill seeks to shoot a mosquito with a shotgun. By focusing on the opportunistic use of the bankruptcy system by relatively few ''deadbeats'' rather than fashioning a tailored remedy, this bill would cripple an already overburdened system.

1. The Means-test: The principal mechanism aimed at the bankruptcy filing rate is the so called ''meanstest,'' which denies access to Chapter 7 (liquidation) bankruptcy to those debtors who are deemed ''able'' to repay their debts. The bill's sponsor describes the test as a ''flexible . . . test to assess an individual's ability to repay his debts,'' and as a remedy to ''irresponsible consumerism and lax bankruptcy law.'' While the stated concept is fine—people who can repay their debts should do so—the particular mechanism proposed is unnecessary, over-inclusive, painfully inflexible, and costly in both financial terms and judicial resources.

First, the new law is unnecessary. Existing section 707(b) already allows a bankruptcy judge, upon her own motion or the motion of the United States Trustee, to deny a debtor a discharge in Chapter 7 to prevent a ''substantial abuse.'' Courts have not hesitated to deny discharges where Chapter 7 was being used to preserve a well-to-do lifestyle, and the United States Trustee's office has already taken it upon itself to object to discharge when, in its view, the debtor has the ability to repay a substantial portion of his or her debts.

Second, the new means-test is over-inclusive. Because it is based on income and expense standards devised by the Internal Revenue Service to deal with tax cheats, the principal effect of the ''means-test'' would be to replace a judicially supervised, flexible process for ferreting out abusive filings with a cumbersome, inflexible standard that can be used by creditors to impose costs on overburdened families, and deprive them of access to a bankruptcy discharge. Any time middle-income debtors have $100/month more income than the IRS would allow a delinquent taxpayer to keep, they must submit themselves to a 60 month repayment plan. Such a plan would yield a mere $6000 for creditors over five years, less costs of government-sponsored administration.

Third, to give just one example of its inflexibility, the means-test limits private or parochial school tuition expenses to $1500 per year. According to a study by the National Center for Educational Statistics, even in 1993, $1500 would not have covered the average tuition for any category of parochial school (except Seventh Day Adventists and Wisconsin Synod Lutherans). Today it would not come close for any denomination. In order to yield a few dollars for credit card issuers, this bill would force many struggling families to take their children from private or parochial school (often in violation of deeply held religious beliefs) for three to five years in order to confirm a Chapter 13 plan.

Fourth, the power of creditors to raise the ''abuse'' issue will significantly increase the number of means-test hearings. Again, the expense of the hearings will be passed along to the already strapped debtor. This will add to the cost of filing for bankruptcy, whether the filing is abusive or not. It will also swamp bankruptcy courts with lengthy and unnecessary hearings, driving up costs for the taxpayers.

Finally, the bill takes direct aim at attorneys who handle consumer bankruptcy cases by making them liable for errors in the debtor's schedules.

Our problem is not with means-testing per se. Our problem is with the collateral costs that this particular means-test would impose. This is not a typical means test, which acts as a gatekeeper to the system. It would instead burden the system with needless hearings, deprive debtors of access to counsel, and arbitrarily deprive families of needed relief. The human cost of this delay, expense, and exclusion from bankruptcy relief is considerable. As a recent study of medical bankruptcies shows, during the two years before bankruptcy, 45% of the debtors studied had to skip a needed doctor visit. Over 25% had utilities shut off, and nearly 20% went without food. If the costs of bankruptcy are higher, the privations will increase. The vast majority of individuals and families that file for bankruptcy are honest but unfortunate. The main effect of the means-test, along with the other provisions discussed below, will be to deny them access to a bankruptcy discharge.

2. Other Provisions That Will Deny Access to Bankruptcy Court: The means-test is not the only provision in the bill which is designed to limit access to the bankruptcy discharge. There are many others. For example:

Sections 306 and 309 of the bill (working together) would eliminate the ability of Chapter 13 debtors to ''strip down'' liens on personal property, in particular their car, to the value of the collateral. As it is, many Chapter 13 debtors are unable to complete the schedule of payments provided for under their plan. These provisions significantly raise the cash payments that must be made to secured creditors under a Chapter 13 plan. This will have a whipsaw effect on many debtors, who, forced into Chapter 13 by the means-test, will not have the income necessary to confirm a plan under that Chapter. This group of debtors would be deprived of any discharge whatsoever, either in Chapter 7 or Chapter 13. In all cases this will reduce payments to unsecured creditors (a group which, ironically, includes many of the sponsors of this legislation).

Section 106 of the bill would require any individual debtor to receive credit counseling from a credit counseling agency within 180 days prior to filing for bankruptcy. While credit counseling sounds benign, recent Senate hearings with regard to the industry have led Senator Norm Coleman to describe the credit counseling industry as a network of not for profit companies linked to for-profit conglomerates. The industry is plagued with ''consumer complaints about excessive fees, pressure tactics, nonexistent counseling and education, promised results that never come about, ruined credit ratings, poor service, in many cases being left in worse debt than before they initiated their debt management plan.'' Mandatory credit counseling would place vulnerable debtors at the mercy of an industry where, according to a recent Senate investigation, many of the ''counselors'' are seeking to profit from the misfortune of their customers.

Sections 310 and 314 would significantly reduce the ability of debtors to discharge credit card debt and would reduce the scope of the fresh start, for even those debtors who are able to gain access to bankruptcy.

The cumulative effect of these provisions, and many others contained in the bill (along

with the means-test) will be to deprive the victims of disease, job loss, and divorce of much needed relief.

3. The Elusive Bankruptcy Tax?: The bill's proponents argue that it is good for consumers because it will reduce the so-called ''bankruptcy tax.'' In their view, the cost of credit card defaults is passed along to the rest of those who use credit cards, in the form of higher interest rates. As the bill's sponsor dramatically puts it: ''honest Americans who play by the rules have to foot the bill.'' This argument seems logical. However, it is not supported by facts. The average interest rate charged on consumer credit cards has declined considerably over the last dozen years. More importantly, between 1992 and 1995, the spread between the credit card interest rate and the risk free six-month t-bill rate declined significantly, and remained basically constant through 2001. At the same time, the profitability of credit card issuing banks remains at near record levels.

Thus, it would appear that hard evidence of the so-called ''bankruptcy tax'' is difficult to discern. That the unsupported assertion of that phenomenon should drive Congress to restrict access to the bankruptcy system, which effectuates Congress's policies about the balance of rights of both creditors and debtors, is simply wrong.

4. Who Will Bear the Burden of the Means-test? The bankruptcy filing rate is not uniform throughout the country. In Alaska, one in 171.2 households files for bankruptcy. In Utah the filing rate is one in 36.5. The states with the ten highest bankruptcy filing rates are (in descending order): Utah, Tennessee, Georgia, Nevada, Indiana, Alabama, Arkansas, Ohio, Mississippi, and Idaho. The deepest hardship will be felt in the heartland, where the filing rates are highest. The pain will not only be felt by the debtors themselves, but also by the local merchants, whose customers will not have the benefit of the fresh start.

The fastest growing group of bankruptcy filers is older Americans. While individuals over 55 make up only about 15% of the people filing for bankruptcy, they are the fastest growing age group in bankruptcy. More than 50% of those 65 and older are driven to bankruptcy by medical debts they cannot pay. Eighty-five percent of those over 60 cite either medical or job problems as the reason for bankruptcy. Here again, abuse is not the issue. The bankruptcy filing rate reveals holes in the Medicare and Social Security systems, as seniors and aging members of the baby-boom generation declare bankruptcy to deal with prescription drug bills, co-pays, medical supplies, long-term care, and job loss.

Finally, it is crucial to recognize that the filers themselves are not the only ones to suffer from financial distress. They often have dependents. As it turns out, families with children single mothers and fathers, as well as intact families—are more likely to file for bankruptcy than families without them. In 2001, approximately 1 in 123 adults filed for bankruptcy. That same year, 1 in 51 children was a dependent in a family that had filed for bankruptcy. The presence of children in a household increases the likelihood that the head of household will file for bankruptcy by 302%. Limiting access to Chapter 7 will deprive these children (as well as their parents) of a fresh start.

Conclusion: The bill contains a number of salutary provisions, such as the proposed provisions that protect consumers from predatory lending. Our concern is with the provisions addressing ''bankruptcy abuse.'' These provisions are so wrongheaded and flawed that they make the bill as a whole unsupportable. We urge you to either remove these provisions or vote against the bill.

Sincerely,

Richard I. Aaron, S.J. Quinney College of Law, University of Utah.

Peter Alexander, Dean and Professor of Law, Southern Illinois University—Carbondale School of Law.

Thomas B. Allington, Professor of Law, Indiana University School of Law—Indianapolis.

Ralph C. Anzivino, Professor of Law, Marquette University School of Law,

Allan Axelrod, Brennan Professor of Law (emeritus), Rutgers-Newark Law School.

Douglas G. Baird, Professor of Law, University of Chicago Law School.

Patrick B. Bauer, Professor of Law, University of Iowa.

Robert J. Bein, Adjunct Professor of Law, The Dickinson School of Law of the Pennsylvania State University.

Carl S. Bjerre, Associate Professor of Law, University of Oregon School of Law.

Susan Block-Lieb, Professor of Law, Fordham Law School.

Amelia H. Boss, Professor of Law, Temple University School of Law.

Kristin Kalsem Brandser, Associate Professor of Law, University of Cincinnati College of Law.

Jean Braucher, Roger Henderson Professor of Law, University of Arizona.

Ralph Brubaker, Professor of Law and Mildred Van Voorhis Jones, Faculty Scholar, University of Illinois College of Law.

Mark E. Budnitz, Professor of Law, Georgia State University College of Law.

Daniel Bussel, Professor of Law, UCLA School of Law.

Bryan Camp, Professor of Law, Texas Tech University School of Law.

Dennis Cichon, Professor of Law, Thomas Cooley Law School.

Donald F. Clifford, Jr., Aubrey Brooks Professor Emeritus, University of North Carolina School of Law.

Neil B. Cohen, Professor of Law, Brooklyn Law School.

Andrea Coles-Bjerre, Assistant Professor, University of Oregon School of Law.

Corinne Cooper, Professor Emerita of Law, University of Missouri, Kansas City.

Marianne B. Culhane, Professor of Law, Creighton Univ. School of Law.

Susan L. DeJarnatt, Associate Professor of Law, Beasley School of Law of Temple University.

Paulette J. Delk, Associate Professor, Cecil C. Humphreys School of Law, The University of Memphis.

A. Mechele Dickerson, 2004–2005 Cabell Research Professor of Law, William and Mary Law School.

W. David East, Professor of Law, South Texas College of Law.

Thomas L. Eovaldi, Professor of Law Emeritus, Northwestern University School of Law.

Mary Jo Eyster, Associate Professor of Clinical Law, Brooklyn Law School.

Adam Feibelman, Associate Professor, University of North Carolina.

Paul Ferber, Professor of Law, Vermont Law School.

Jeffrey Ferriell, Professor of Law, Capital University School of Law.

Larry Garvin, Associate Professor of Law, Michael E. Moritz College of Law, Ohio State University.

Michael Gerber, Professor of Law, Brooklyn Law School.

S. Elizabeth Gibson, Burton Craige Professor of Law, University of North Carolina at Chapel Hill.

Marjorie L. Girth, Professor of Law, Georgia State University College of Law.

Michael M. Greenfield, Walter D. Coles, Professor of Law, Washington University in St. Louis School of Law.

Karen Gross, Professor of Law, New York Law School.

Steven L. Harris, Professor of Law, Chicago-Kent College of Law.

John Hennigan, Professor of Law, St. John's University School of Law.

Henry E. Hildebrand III, Adjunct Professor, Nashville School of Law.

Margaret Howard, Professor of Law, Washington and Lee University School of Law.

Sarah Jane Hughes, Professor of Law, Indiana University-Bloomington School of Law.

Melissa B. Jacoby, Associate Professor of Law, University of North Carolina at Chapel Hill.

Edward J. Janger, Visiting Professor of Law, University of Pennsylvania Law School and Professor of Law, Brooklyn Law School.

Creola Johnson, Associate Professor of Law, Ohio State Univeristy, Moritz College of Law.

Daniel Keating, Tyrell Williams, Professor of Law, Washington University in Saint Louis School of Law.

Kenneth C. Kettering, Associate Professor, New York Law School.

Jason Kilborn, Assistant Professor, Louisiana State University Law Center.

Don Korobkin, Professor of Law, Rutgers-Camden School of Law.

Robert M. Lawless, Gordon & Silver, Ltd., Professor of Law, University of Nevada, Las Vegas, William S. Boyd School of Law.

Paul Lewis, Professor of Law, The John Marshall Law School.

Jonathan C. Lipson, Visiting Professor of Law, Temple University and Professor of Law, University of Baltimore.

Lynn M. LoPucki, Security Pacific Bank Professor of Law, UCLA Law School.

Ann Lousin, Professor of Law, John Marshall Law School.

Stephen J. Lubben, Associate Professor of Law, Seton Hall University School of Law.

Lois R. Lupica, Professor of Law, University of Maine School of Law.

Ronald J. Mann, Ben H. & Kitty King Powell Chair in Business and Commercial Law, University of Texas School of Law.

Nathalie Martin, Dickason Professor of Law, UNM Mexico School of Law.

James McGrath, Associate Professor of Law, Appalachian School of Law.

Stephen McJohn, Professor of Law, Suffolk University Law School.

Juliet M. Moringiello, Professor of Law, Widener University School of Law.

Jeffrey W. Morris, Samuel A. McCray Chair in Law, University of Dayton School of Law.

James P. Nehf, Professor and Cleon H. Foust Fellow, Indiana University School of Law-Indianapolis, and Visiting Professor, University of Georgia School of Law.

Spencer Neth, Professor of Law, Case Western Reserve University.

Gary Neustadter, Professor of Law, Santa Clara University School of Law.

Scott F. Norberg, Associate Dean for Academic Affairs and Professor of Law, Florida International University College of Law.

Richard Nowka, Professor of Law, Louis D. Brandeis School of Law, University of Louisville.

Rafael I. Pardo, Associate Professor of Law, Tulane Law School.

Dean Pawlowic, Professor of Law, Texas Tech University School of Law.

Christopher Peterson, Assistant Professor of Law, University of Florida Fredric G. Levin College of Law.

Lydie Pierre-Louis, Assistant Professor of Law, Director, Securities Arbitration Clinic, St. John's University School of Law.

John A. E. Pottow, Assistant Professor of Law, University of Michigan Law School.

Lydie Nadia Pierre-Louis, Assistant Professor of Law, St. John's University School of Law.

Thomas E. Plank, Joel A. Katz Distinguished Professor of Law, University of Tennessee College of Law.

Katherine Porter, Visiting Associate Professor of Law, University of Nevada, Las Vegas William S. Boyd School of Law.

Theresa J. Pulley Radwan, Associate Dean of Academics, Stetson University College of Law.

Nancy B. Rapoport, Professor of Law, University of Houston Law Center.

Robert K. Rasmussen, Milton Underwood Chair in Law, FedEx Research Professor of Law, Director, Joe C. Davis Law and Economics Program, Vanderbilt University School of Law.

David Reiss, Assistant Professor, Brooklyn Law School.

Alan N. Resnick, Interim Dean and Benjamin Weintraub, Professor of Law, Hofstra University School of Law.

R. J. Robertson, Jr., Professor of Law, Southern Illinois University School of Law.

Arnold S. Rosenberg, Assistant Professor of Law, Thomas Jefferson School of Law.

Keith A. Rowley, Associate Professor of Law, William S. Boyd School of Law, University of Nevada Las Vegas.

David Wm. Ruskin, Adjunct Professor of Law, Wayne State University Law School.

Michael L. Rustad, Thomas F. Lambert Jr., Professor of Law & Co-Director of Intellectual Property Law Program, Suffolk University Law School.

Milton R. Schroeder, Professor of Law, Arizona State University College of Law.

Steven L. Schwarcz, Stanley A. Star, Professor of Law & Business, Duke University School of Law, Founding Director, Global Capital Markets Center.

Stephen L. Sepinuck, Professor of Law, Gonzaga University School of Law.

Charles Shafer, Professor of Law, University of Baltimore.

Paul Shupack, Professor of Law, Benjamin Cardozo School of Law, Yeshiva University.

Norman I. Silber, Professor of Law, Hofstra University School of Law.

David Skeel, S. Samuel Arsht, Professor of Corporate Law, University of Pennsylvania Law School.

Judy Beckner Sloan, Professor of Law, Southwestern University School of Law.

James C. Smith, Professor of Law, University of Georgia.

Charles Tabb, Associate Dean for Academic Affairs and Alice Curtis Campbell Professor of Law, University of Illinois College of Law.

Walter Taggart, Prof. of Law, Villanova University School of Law.

Bernard Trujillo, Assistant Professor, U. Wisconsin Law School.

Joan Vogel, Professor of Law, Vermont Law School.

Thomas M. Ward, Professor, University of Maine School of Law.

G. Ray Warner, Professor of Law & Director, LL.M. in Bankruptcy, St. John's University School of Law.

Elizabeth Warren, Leo Gottlieb, Professor of Law, Harvard Law School.

Elaine A. Welle, Professor of Law, University of Wyoming College of Law.

Jay Lawrence Westbrook, Benno C. Schmidt, Chair of Business Law, University of Texas School of Law.

Douglas Whaley, Professor Emeritus, Moritz College of Law, Ohio State University.

Michaela M. White, Professor of Law, Creighton University School of Law.

Mary Jo Wiggins, Professor of Law, University of San Diego School of Law.

Lauren E. Willis, Associate Professor of Law, Loyola Law School—Los Angeles.

William J. Woodward, Jr., Professor of Law, Temple University School of Law.

John J. Worley, Professor of Law, South Texas College of Law.

Mary Wynne, Associate Clinical Professor and Director Indian Legal Clinic, Arizona State University.

The SPEAKER pro tempore (Mr. SWEENEY). Is there objection to the request of the gentlewoman from New York?

Mrs. MALONEY. And this is wrong. Where are the family values in this Congress?

The SPEAKER pro tempore. The gentlewoman is not under recognition.

Mrs. MALONEY. Is it just rhetoric or do you really care about children?

Mr. SAM JOHNSON of Texas. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

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

PARLIAMENTARY INQUIRIES

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker. What was the objection about?

The SPEAKER pro tempore. The objection was regarding the placement of extraneous material in the RECORD.

Mr. HASTINGS of Florida. Mr. Speaker, further parliamentary inquiry, what is the ruling of the Chair?

The SPEAKER pro tempore. The Chair heard objection.

Mr. HASTINGS of Florida. Further parliamentary inquiry, so the gentlewoman from New York's request to put in the RECORD the material?

The SPEAKER pro tempore. The material will not be placed in the RECORD. Objection was heard.

Mr. HASTINGS of Florida. Mr. Speaker, there is objection to a Member's placing in the RECORD, a Member who had made a statement supporting the things that she asked to be submitted, that is being denied?

The SPEAKER pro tempore. That is correct.

Mr. NADLER. Parliamentary inquiry, Mr. Speaker. What is the basis for the objection to a request for insertion into the RECORD of material?

The SPEAKER pro tempore. It takes unanimous consent to place extraneous material in the RECORD. An objection was heard to such a request; therefore, unanimous consent was not obtained.

Mr. NADLER. Mr. Speaker, is it not customary as a normal matter of comity in this House to allow all material requested to be placed in the RECORD?

The SPEAKER pro tempore. Unanimous consent was sought. It was not obtained because the gentleman from Texas was on his feet and objected; therefore, the material does not get inserted in the RECORD.

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Speaker. Is the material asked to be inserted covered under the General Leave that was requested at the beginning of the debate by the gentleman from Georgia (Mr. GINGREY)?

The SPEAKER pro tempore. The general leave was for extension of remarks and not for insertion of extraneous material.

Mr. NADLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. There has been no ruling. The Chair merely heard objection.

Ms. WATERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman from California is recognized.

Ms. WATERS. Mr. Speaker, does the rule not state that the objection must be asked for prior to the speaking of the Member? This Member spoke, and the objection was asked for after the party spoke. My understanding is it should have been done ahead of time.

What is the correct rule?

The SPEAKER pro tempore. The gentlewoman from New York made a unanimous consent request, which was heard in total. At the conclusion of that request, the Chair queried for objection, and the gentleman from Texas rose and objected. Therefore, unanimous consent was not obtained.

Ms. WATERS. I am sorry, Mr. Speaker. I think what I observed was she asked unanimous consent. There was no objection. She proceeded to speak. She spoke, and the objection was not timely. It was asked for after she had completed speaking. That is what I saw.

The SPEAKER pro tempore. The gentlewoman from New York was yielded for the purpose of a unanimous consent request. At the conclusion of that consent request, objection was made by the gentleman from Texas.

Ms. WATERS. Mr. Speaker, I submit that that was not a timely objection. It was not timely.

The SPEAKER pro tempore. It was a contemporaneous objection; when the Chair queried for objection, the gentleman was on his feet. Therefore, it was timely.

Ms. WATERS. Mr. Speaker, I do not think so. And I would oppose that, and I would support my colleague, who again would ask that we have a vote on the ruling by the Chair.

The SPEAKER pro tempore. Does the gentlewoman from California appeal the ruling of the Chair that the objection was timely?

Ms. WATERS. Yes, Mr. Speaker. Based on my statement, he is now again appealing the ruling of the Chair based on that it was untimely.

I ask the gentleman from New York (Mr. NADLER) if that is right.

Mr. NADLER. Yes, it is.

The SPEAKER pro tempore. The question is, shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the appeal.

The SPEAKER pro tempore. Would the gentleman kindly withhold that motion.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw for now the motion to table.

Mr. NADLER. Mr. Speaker, in light of new information, I withdraw the appeal.

The SPEAKER pro tempore. Does the gentlewoman from California withdraw her appeal?

Ms. WATERS. Yes, Mr. Speaker, I withdraw; and I thank the gentleman on the opposite side of the aisle.

Mr. HASTINGS of Florida. Mr. Speaker, with the Speaker's permission, I ask unanimous consent that the extraneous material offered by the gentlewoman from New York (Mrs. MALONEY) be made a part of the RECORD following her remarks.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise to oppose this legislation.

After 4 years of record deficits and $2 trillion in new debt, one would think that the Republican majority would have a better understanding of what bankruptcy is. They are lucky this law does not apply to their actions in the last 4 years.

Instead, we have a bill that promotes one bankruptcy code for the wealthy and another for the middle class.

Case in point: The bill preserves the ''Millionaires Loophole,'' used by the wealthy to hide up to $1 million from creditors and courts into offshore accounts known as asset protection. Everyone should be subject to the same law and the same standards, not one set of rules for the wealthy and one for middle-class families. If one can afford a high-priced lawyer to set up an asset protection trust, they are a lot better off in bankruptcy than a middle-class family struggling to pay off large hospital bills. More than half of all bankruptcies result from catastrophic medical bills.

Mr. Speaker, rather than deal with the health care crisis or making college affordable, this legislation protects wealthy deadbeats from the same standard imposed upon every middle-class American. We should have one rule, one standard in the law of bankruptcy law that applies to every American regardless of income and regardless of wealth or position.

Mr. GINGREY. Mr. Speaker, I yield myself 1 minute.

In response to the gentleman from Illinois, the reform bill significantly limits two practices that some wealthy filers use to hide assets from bankrupt creditors. Under the current system, in States with unlimited homestead exemptions, debtors can shield the full value of their residencies from creditors. To discourage debtors from relocating to the State to hide assets prior to a bankruptcy filing, the legislation requires a 3-year residency before a debtor can take advantage of the State's full homestead exemption. Currently, that is 91 days.

In addition, the bill adds a specific provision that prevents filers from shielding funds in an asset protection trust when fraud is involved. In fact, these practices will continue unabated unless this legislation is passed.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield for the purposes of making a privileged motion to the gentlewoman from California (Ms. WOOLSEY).

MOTION TO ADJOURN

Ms. WOOLSEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The motion is not debatable.

The question is on the motion to adjourn offered by the gentlewoman from California (Ms. WOOLSEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. WOOLSEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 49, nays 371, not voting 14, as follows:

[Roll No. 103]

YEAS—49

Allen
Baldwin
Berman
Brady (PA)
Butterfield
Capps
Capuano
Clay
Clyburn
Conyers
Cooper
Delahunt
DeLauro
Dingell
Doggett
Evans
Fattah
Filner
Frank (MA)
Green, Al
Hinchey
Holt
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick (MI)
Kucinich
Lee
Markey
McDermott
McGovern
McKinney
Miller, George
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rangel
Sánchez, Linda T.
Schakowsky
Stark
Thompson (MS)
Tierney
Waters
Waxman
Woolsey

NAYS—371

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Berkley
Bilirakis
Buyer
Davis, Tom
Gillmor
Herger
Istook
Manzullo

McCrery	Solis	Towns
Serrano	Thomas	Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SWEENEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1208

Messrs. GOODE, FRANKS of Arizona, SHADEGG, BEAUPREZ, AND SHERMAN, and Ms. GINNY BROWN-WAITE of Florida, Mrs. CAPITO, and Ms. BEAN changed their vote from ''yea'' to ''nay.''

Mr. KUCINICH and Mr. PAYNE changed their vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 103 on motion to adjourn I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The SPEAKER pro tempore. Members are advised that the gentleman from Georgia (Mr. GINGREY) has 2½ minutes remaining; and the gentleman from Florida (Mr. HASTINGS) has 4½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield to the gentlewoman from California (Ms. WOOLSEY) for a unanimous consent request.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to S. 256 because this bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my friend, the gentlewoman from Indiana (Ms. CARSON).

(Ms. CARSON asked and was given permission to revise and extend her remarks.)

Ms. CARSON. Mr. Speaker, I rise in opposition to S. 256.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise Members that, as indicated most recently by the Chair on March 24, 2004, although a unanimous consent to insert remarks in debate may embody a simple, declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

The Chair will entertain as many requests to insert as may be necessary to accommodate Members, but the Chair also must ask Members to cooperate by confining such remarks to the proper form.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New Mexico (Mr. UDALL) for a unanimous consent request.

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise in opposition to S.256, because this bill severely hurts a middle-class citizen's ability to get a second chance.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from New Jersey (Mr. PAYNE), for a unanimous consent request.

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

Mr. PAYNE. Mr. Speaker, I rise in opposition to S. 256 because the bill does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), for a unanimous consent request.

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to S.256 because the bill does nothing to address the epidemic of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Rules, the gentlewoman from New York (Ms. SLAUGHTER), for a unanimous consent request.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to S.256 because the bill does nothing to address the problem of identity theft or protect its victims.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my friend, the gentlewoman from California (Ms. LEE), for a unanimous consent request.

(Ms. LEE asked and was given permission to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise in opposition to S.256 because it is morally bankrupt and puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from California (Mr. STARK) for a unanimous consent request.

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

Mr. STARK. Mr. Speaker, I rise in opposition to S.256 because the bill does not accommodate the 50 million uninsured Americans forced into bankruptcy by health care costs.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the ranking member of the Committee on Transportation and Infrastructure, my good friend, the gentleman from Minnesota (Mr. OBERSTAR), for a unanimous consent request.

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

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Michigan (Ms. KILPATRICK).

(Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.)

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, this bankruptcy bill, because it does nothing to protect the victims of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from New York (Mr. OWENS), my good friend, for a unanimous consent request.

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

Mr. OWENS. Mr. Speaker, I rise in opposition to S. 256 because it protects the risks that credit card companies take, while allowing them to swindle citizens.

Mr. Speaker, as a result of the actions of the Republican led Congress, unscrupulous credit card companies will increase their strong, hard sell tactics pressuring more and more individuals and families to purchase more credit. Credit card hucksters can take more risks because they will now enjoy greater protection from the courts. The taxpayer financed courts will become the debt collectors for the credit card swindlers. A federalized system will now protect the predators. Once again the doctrine of laissez-faire has been turned upside down. The marketplace has chosen to cling to the aprons of government. The banking private sector is demanding governmental interference in a situation where the taxpayers prefer not to pay agents for the work of strong enforcers. To serve the interest of consumer justice I urge a "no" vote on S. 256, the Bankruptcy Reform Bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentlewoman from San Diego, California (Mrs. DAVIS) for a unanimous consent request.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I rise in opposition to S. 256 because this bill adds to the burden of military families finding basic financial strength.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Ohio (Mrs. JONES), for a unanimous consent request.

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I rise in opposition to Senate bill 256 because the bill punishes working families and lets large corporations off the hook.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Washington (Mr. MCDERMOTT) for a unanimous consent request.

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

Mr. MCDERMOTT. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children in the priorities.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentleman from Massachusetts (Mr. OLVER) for a unanimous consent request.

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

Mr. OLVER. Mr. Speaker, I rise in opposition to S. 256.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Vermont (Mr. SANDERS) for a unanimous consent request.

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

Mr. SANDERS. Mr. Speaker, I rise in opposition to S. 256 because, on a bill of this magnitude, it is undemocratic and an outrage that amendments are not being allowed.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for a unanimous consent request.

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to S. 256 because this bill puts credit card companies ahead of children.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, 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 rise in opposition to S. 256 because this bill puts credit card companies ahead of children and does not protect disabled veterans from creditors.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my good friend, the gentlewoman from California (Ms. WATSON), for a unanimous consent request.

(Ms. WATSON asked and was given permission to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to address the epidemic of identity theft or protect its victims.

□ 1215

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield for a unanimous consent request to my good friend, the gentlewoman from California (Ms. ROYBAL-ALLARD).

(Ms. ROYBAL-ALLARD asked and was given permission to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect disabled veterans or to address the epidemic of identity theft.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Connecticut (Ms. DELAURO).

(Ms. DELAURO asked and was given permission to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I rise in opposition to S. 256 because this bill turns its back on middle-class America, continuing an administration that proceeds to reward the wealthy and tax wages.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from Florida (Ms. CORRINE BROWN).

(Ms. CORRINE BROWN of Florida asked and was given permission to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise in opposition to S. 256 because this bill does nothing to protect our heroic Reservists and Guard who are fighting for us every day in war.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to S. 256. It abuses the people.

Mr. HASTINGS of Florida. Mr. Speaker, I yield for a unanimous consent request to my good friend, the gentlewoman from California (Ms. WATERS).

(Ms. WATERS asked and was given permission to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, I rise in opposition to S. 256 because the Republicans have sold out to the credit card companies and they are hurting American families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker Pro Tempore (Mr. SWEENEY). The Chair would remind Members that their statements should be confined to their unanimous consent requests.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield for a unanimous consent request to my good friend, the gentleman from Massachusetts (Mr. MEEHAN).

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

Mr. MEEHAN. Mr. Speaker, I rise in opposition to S. 256, which clearly is a payback and payout to the credit card companies.

Mr. HASTINGS of Florida. Mr. Speaker I am pleased to yield for a unanimous consent request to my good friend, the gentleman from North Carolina (Mr. WATT) from the Judiciary Committee, who had the opportunity to participate in some of those hearings, and is the chairman of the Congressional Black Caucus.

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

Mr. WATT. Mr. Speaker, I rise in opposition to the rule and in opposition to the bill; the rule because the rule shuts out all amendments to this bill.

The SPEAKER pro tempore. The gentleman from Florida has 3½ minutes remaining. The gentleman from Georgia has 2½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, just previous to the unanimous consent request, I was told by way of the gentleman from Georgia (Mr. GINGREY) that we had 4½ minutes.

The SPEAKER pro tempore. The Chair advises the gentleman from Florida that, during the series of unanimous consent requests, some Members embellished with oratory beyond the proper form. One minute was taken from the time for that.

PARLIAMENTARY INQUIRIES

Mr. CONYERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. CONYERS. Mr. Speaker, did I understand you to tell the leader of the Rules Committee managing the bill today that time would be taken from him because of the unanimous consent request?

The SPEAKER pro tempore. The Chair advised on that earlier, and will amplify the earlier statement. As indicated by previous occupants of the Chair on March 24, 2004; November 21, 2003; July 24, 2003; June 26, 2003; June 22, 2002; and March 24, 1995, although a unanimous consent request to insert remarks in debate may embody a simple declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory, and it can become an imposition on the time of the Member who has yielded for that purpose.

Mr. CONYERS. Mr. Speaker, may I point out that the floor manager in no way encouraged anyone to speak contrary to the rule that you have just enunciated.

The SPEAKER pro tempore. Members are yielded to for that purpose. They must confine their remarks to the proper form, or time can be subtracted from the individual yielding.

Mr. CONYERS. And in the judgment of the distinguished Speaker, how much time are you proposing to take from the floor manager?

The SPEAKER pro tempore. One minute was charged.

Mr. CONYERS. Is there some precedent for that, sir?

The SPEAKER pro tempore. Yes, as just cited.

Mr. CONYERS. There is?

Mr. GINGREY. Mr. Speaker, in the interest of comity, I ask unanimous consent that the gentleman from Florida be yielded an additional 1 minute.

The SPEAKER pro tempore. From the gentleman from Georgia's time?

Mr. GINGREY. Not from my time, no, Mr. Speaker. That he be allowed an additional 1 minute.

The SPEAKER pro tempore. Beyond the hour available for debate on the rule?

Mr. HASTINGS of Florida. Parliamentary inquiry, Mr. Speaker.

Mr. GINGREY. Mr. Speaker, I request that we grant by unanimous consent 30 seconds of my time to the gentleman from Florida.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my colleague, but I am confused by the Chair's ruling. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. HASTINGS of Florida. Mr. Speaker, even though there is only 1 hour debate, a unanimous consent request by a Member that is not objected to is not permitted for extension of time?

The SPEAKER pro tempore. Would the gentleman from Georgia like to modify his request?

Mr. GINGREY. Mr. Speaker, I would like to modify that request to extend time by one minute on both sides.

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

Mr. MURTHA. Objection, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. HASTINGS of Florida. Mr. Speaker, moving right along, I am pleased at this time to yield 3 minutes to the gentleman from California (Mr. SCHIFF), my good friend.

Mr. SCHIFF. Mr. Speaker, on Tuesday night I took an amendment to the Rules Committee asking the committee to permit this body to consider allowing each Member the opportunity to approve that amendment or reject it. The Republican majority on the Rules Committee, however, rejected giving Members that opportunity.

My amendment would have simply provided that if more than one half of the creditor claims against you in bankruptcy are the result of identity theft, you should not be forced out of the protections of chapter 7. It was similar to an amendment offered by Senator NELSON of Florida, but was even narrower than that amendment.

Mr. Speaker, a few years ago, the manager of the identity theft at the FTC commented on how identity theft was becoming rampant in this country, that it wreaks havoc on the credit of the victim and can even force them into bankruptcy. Since then, the problem has grown even worse, and an estimated 27.3 million Americans have fallen victim to identity theft in the last 5 years.

We have all heard of recent breaches of massive databases holding personal information. On Monday, the parent company of the Lexis-Nexis reported that 310,000 people, nearly 10 times more than the original estimate reported last month, may have had their personal information stolen, including names, addresses, Social Security numbers, and driver's license numbers.

And this is not an isolated incident. Identity thieves have gained access to Choicepoint's database and personal information has been stolen and compromised from a major bank, department of motor vehicles, and a number of universities. Added together, these recent incidents in the last several weeks alone have exposed more than 2 million people to possible ID theft.

During the Judiciary Committee consideration of my amendment, I cited two recent examples of identity theft victims who were forced to declare bankruptcy, one young woman defrauded out of $300,000 and another woman who was wiped out financially when her identity was stolen, forcing her to file for bankruptcy right before Christmas.

When I offered the amendment in the Judiciary Committee it provoked quite a debate as well as a disagreement between the Chair of the full committee and the Chair of the subcommittee. The Chair of the subcommittee argued that my amendment would somehow do harm, while the Chair of the full committee argued that the problem with my amendment was that it did nothing at all. The chairman of the subcommittee then argued that the problem was that this issue had never been explored. However, the chairman of the full committee argued that this issue, and every other, had already been explored.

Well, Mr. Speaker and Members, it cannot be both. The chairman of the subcommittee even pondered what would happen if a person had their identity stolen, but then later became wealthy and had the ability to pay off their debt. While admitting that he was stretching, he still urged his colleagues to reject the amendment because it would ''clearly disrupt the whole process of moving forward the bill.'' Thus prompting a question: When is a markup not really a markup? And the answer is, whenever the bankruptcy bill is in committee.

This is now the third session in a row where essentially no amendments have been entertained in committee and no amendments have been allowed here on the floor.

Mr. Speaker, just to conclude, last year the House supported identity theft legislation cracking down on identity thieves. This amendment gives us the chance to protect some of those who have been victimized by identity theft, and I urge an ''aye'' vote.

The SPEAKER pro tempore. The gentleman from Florida (Mr. HASTINGS) has 1 minute remaining. The gentleman from Georgia (Mr. GINGREY) has 2 minutes remaining.

Mr. GINGREY. Mr. Speaker, I have the right to close, and I wanted to reserve the balance of my time for that purpose.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the remainder of my time. Mr. Speaker, I will be asking Members to vote ''no'' on the previous question. If the previous question is defeated, I will amend this rule so we can vote on the Schiff amendment to help victims of identity theft. It will exempt from the bill's means test those consumers who are victimized by identity theft if it means 51 percent of the creditor claims against them are due to identity theft. This is a very reasonable and much-needed amendment, being debated in the Senate I might add, not on the bankruptcy measure, was offered in the Rules Committee last night, but unfortunately was blocked by the Republican majority by a straight party line vote.

Voting ''no'' on the previous question will not stop the bankruptcy bill from coming to the floor today. S. 256 will still be considered in this House before we leave for the weekend. However, a ''yes'' vote will preclude the House from addressing one of the most serious consumer issues in this country, identity theft. And I ask for a ''no'' on the previous question.

We owe it to our constituents to take action on this serious and escalating problem.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

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

There was no objection.

Mr. GINGREY. Mr. Speaker, I yield myself the remainder of my time. As we come to the end of the debate on the rule for S. 256, I urge my colleagues to support its passage and the underlying bill.

Mr. Speaker, it is time to pass bankruptcy reform. Today we must fix our bankruptcy laws to prevent irresponsible and unnecessary bankruptcies. Bankruptcy affects all American families. It is estimated that the annual cost is $400 to every family in America, and it is time to reform an outdated and broken system.

Despite the objections of a few Members, I know we have followed a fair process to get to this point. The Rules Committee offered to provide the minority with the ability to submit a substitute amendment. Their substitute amendment could have included any provisions they felt necessary. The Democrats rejected this offer, and they have failed to provide any alternative plan.

It is important to note many of the individual amendments they have discussed here today were considered over the past few years. Regardless of the rhetoric, this legislation has been under consideration and amended a number of times. We are now on the final product.

This year alone, S. 256 passed the House Judiciary Committee where 18

amendments were considered. To the substance of the bill, contrary to the claims of some, this legislation is not lining the pockets of wealthy creditors with the savings of the financially challenged.

Mr. Speaker, when casting their vote, I ask my colleagues to consider those constituents the current law harms. This bill gives support to small businesses and financially responsible families. I ask my colleagues to pass this rule and finally end the 8-year debate on bankruptcy reform.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 211, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

In the resolution strike ''and (2)'' and insert the following:

''(2) the amendment printed in Sec. 2 of this resolution if offered by Representative Schiff of California or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 60 minutes equally divided and controlled by the proponent and an opponent; and (3)''

SEC. 2.

AMENDMENT TO S. 256, AS REPORTED

Offered by Mr. Schiff of California

Page 19, after line 21, insert the following (and make such technical and conforming changes as may be appropriate):

''(8)(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 debtor is an identity theft victim.

''(B) For purposes of this paragraph—

''(i) the term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another individual; and

''(ii) the term 'identity theft victim' means a debtor with respect to whom not less than 51 percent of the aggregate value of allowed claims is a result of identity theft using the personally identifiable information of the debtor.''.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 199, not voting 8, as follows:

[Roll No. 104]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Berkley
Cooper
Davis, Tom
Gillmor
LaHood
Payne
Solis
Wamp

□ 1253

Mrs. TAUSCHER, Mr. DAVIS of Florida and Mr. PASTOR changed their vote from ''yea'' to ''nay.''

Mr. BASS and Mr. HOEKSTRA changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 104 on H. Res. 211, ordering the previous question, I was unavoidably detained. Had I been present, I would have voted, "nay".

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 196, not voting 11, as follows:

[Roll No. 105]

AYES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Berkley
Cooper
Davis, Tom
Feeney
Gillmor
Gordon
Gutknecht
Jenkins
LaHood
Rangel
Solis

□ 1302

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 105, on agreeing to the resolution H. Res. 211, I was unavoidably detained. Had I been present, I would have voted, "no."

PRIVILEGES OF THE HOUSE—RESTORING PUBLIC CONFIDENCE IN ETHICS PROCESS

Ms. PELOSI. Mr. Speaker, pursuant to rule IX, I rise in regard to a question of the privileges of the House, and I offer a privileged resolution that would create a bipartisan task force to return to ethical rules of the House.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 213

Whereas, the constitution of the United States authorizes the House of Representatives to ''determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member'';

Whereas, in 1968, in compliance with this authority and to uphold its integrity and ensure that Members act in a manner that reflects credit on the House of Representatives, the Committee on Standards of Official Conduct was established;

Whereas, the ethics procedures in effect during the 108th congress, and in the three preceding Congresses, were enacted in 1997 in a bipartisan manner by an overwhelming vote of the House of Representatives upon the bipartisan recommendation of the ten-member Ethics Reform Task Force, which conducted a thorough and lengthy review of the entire ethics process;

Whereas, in the 109th Congress, for the first time in the history of the House of Representatives, decisions affecting the ethics process have been made on a partisan basis without consulting the Democractic Members of the Committee or of the House;

Whereas, the Chairman of the Committee, and two of his Republican colleagues, were dismissed from the Committee;

Whereas, in a statement to the press, the departing Chairman of the Committee stated ''[t]here is a bad perception out there that there was a purge in the Committee and that people were put in that would protect our side of the aisle better than I did,'' and a replaced Republican Member, also in a statement to the press, referring to his dismissal from the Committee, noted his belief that ''the decision was a direct result of our work in the last session;''

Whereas, the newly appointed chairman of the Committee improperly and unilaterally fired non-partisan Committee staff who assisted in the ethics work in the last session;

Whereas, these actions have subjected the Committee to public ridicule, produced contempt for the ethics process, created the public perception that their purpose was to protect a Member of the House, and weakened the ability of the Committee to adequately obtain information and properly conduct its investigative duties, all of which has brought discredit to the House; now be it

Resolved, that the Speaker shall appoint a bi-partisan task force with equal representation of the majority and minority parties to make recommendations to restore public confidence in the ethics process; and be it further

Resolved, that the task force report its findings and recommendations to the House of Representatives no later than June 1, 2005.

The SPEAKER pro tempore. The resolution does present a question of privilege.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 218, nays 195, not voting 21, as follows:

[Roll No. 106]

YEAS—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt

Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Stearns
Sullivan
Sweeney
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—195

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—21

Allen
Berkley
Brown, Corrine
Evans
Gillmor
Gordon
Hayes
Hyde
Johnson, E. B.
LaHood
Lofgren, Zoe
Myrick
Norwood
Olver
Oxley
Rangel
Solis
Souder
Tancredo
Taylor (NC)
Young (AK)

□ 1334

Mr. MORAN of Virginia changed his vote from ''yea'' to ''nay.''

Messrs. PRICE of Georgia, SAXTON, KNOLLENBERG, LEWIS of Kentucky, PETERSON of Pennsylvania, COLE of Oklahoma, RADANOVICH, WOLF, KING of New York, INGLIS of South Carolina, ENGLISH of Pennsylvania and HALL changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 106, on motion to table the resolution, H. Res. 215, I was unavoidably detained. Had I been present, I would have voted ''nay.''

Ms. ZOE LOFGREN of California. Mr. Speaker, on rollcall No. 106, I had turned off my pager during a committee meeting and neglected to turn it back on. When the vote was called, therefore, I did not learn of it. Had I been present, I would have voted, ''nay.''

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 211, I call up the Senate bill (S. 256) to amend title 11 of the United States Code, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of S. 256 is as follows:

S. 256

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 2005''.

(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. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. 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, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such 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.

''(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or

convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

''(i) on active duty (as defined in section 101(d)(1) of title 10); or

''(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

''(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 a case 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, including a veteran (as that term is defined in section 101 of title 38), 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.

''(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and ''disability'' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).''.

(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 is a person described in section 109(h)(4) or 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 is a person described in section 109(h)(4) or 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;

''(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

''(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.

''(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); or

''(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, 2004), 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, on, 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, on, 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) in paragraph (10), by striking ''and'' at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) 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; and'';

(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 case or 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''.

SEC. 234. PROTECTION OF PERSONAL INFORMATION.

(a) RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.—Section 107 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual's property:

''(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

''(B) Other information contained in a paper described in subparagraph (A).

''(2) Upon ex parte application demonstrating cause, the court shall provide access to information protected pursuant to paragraph (1) to an entity acting pursuant to the police or regulatory power of a domestic governmental unit.

''(3) The United States trustee, bankruptcy administrator, trustee, and any auditor serving under section 586(f) of title 28—

''(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

''(B) shall not disclose information specifically protected by the court under this title.''.

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting ''last 4 digits of the'' before ''taxpayer identification number''; and

(2) by adding at the end the following: ''If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is

amended by striking ''subsection (b),'' and inserting ''subsections (b) and (c),''.

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 subsection (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 (l), 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 (m), 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 for 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 2005.

''(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, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

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

''(1) For a case commenced under—

''(A) chapter 7 of title 11, $200; and

''(B) chapter 13 of title 11, $150.''; and

(2) in paragraph (3), by striking ''$800'' and inserting ''$1000''.

(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; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''75 percent''; 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, 31.25 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''.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES' SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

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).''.

SEC. 331. LIMITATION ON RETENTION BONUSES, SEVERANCE PAY, AND CERTAIN OTHER PAYMENTS.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

''(c) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

''(1) 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—

''(A) 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;

''(B) the services provided by the person are essential to the survival of the business; and

''(C) 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;

''(2) a severance payment to an insider of the debtor, unless—

''(A) the payment is part of a program that is generally applicable to all full-time employees; and

''(B) 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

''(3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.''.

SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) SHORT TITLE.—This section may be cited as the ''Involuntary Bankruptcy Improvement Act of 2005''.

(b) INVOLUNTARY CASES.—Section 303 of title 11, United States Code, is amended by adding at the end the following:

''(*l*)(1) If—

''(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

''(B) the debtor is an individual; and

''(C) the court dismisses such petition,

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

''(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

''(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.''.

(c) BANKRUPTCY FRAUD.—Section 157 of title 18, United States Code, is amended by inserting '', including a fraudulent involuntary bankruptcy petition under section 303 of such title'' after ''title 11''.

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 2005, 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''. Section 1409(b) of title 28, United States Code, is further amended by striking ''$5,000'' and inserting ''$15,000''.

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 otherwise applicable nonbankruptcy law, or any 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 fee 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, and 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.''.

(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, on, or after the date of 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.—apter 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, 2008, 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 2005;''; 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 2005.

''(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 or elected 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 1517, 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.—

(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 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.—

(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.''.

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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union 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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union 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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union 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, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union 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, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, 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.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—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).''.

(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).''.

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), and as in effect on June 30, 2005, is hereby reenacted.

(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on July 1, 2005.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) 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 amended by this Act, is further amended—

(1) by striking ''In this title—'' and inserting ''In this title the following definitions shall apply:'';

(2) in each paragraph (other than paragraph (54A)), 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) in paragraph (54A)—

(A) by striking ''the term'' and inserting ''The term''; and

(B) 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(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting ''101(19A),'' after ''101(18),'' each place it appears;

(2) by inserting ''522(f)(3) and 522(f)(4),'' after ''522(d),'' each place it appears;

(3) by inserting ''541(b), 547(c)(9),'' after ''523(a)(2)(C),'' each place it appears;

(4) in paragraph (1), by striking ''and 1325(b)(3)'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''; and

(5) in paragraph (2), by striking ''and 1325(b)(3) of this title'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''.

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 2005''.

(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 apply with respect to cases commenced under title 11 of the United States Code before, on, and after 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 2005, 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—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

(1) in paragraph (4) by striking ''90'' and inserting ''180'', and

(2) in paragraphs (4) and (5) by striking ''$4,000'' and inserting ''$10,000''.

SEC. 1402. 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.''.

(4) by adding at the end the following:

''(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

''(A) such transfer was made to a self-settled trust or similar device;

''(B) such transfer was by the debtor;

''(C) the debtor is a beneficiary of such trust or similar device; and

''(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

''(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

''(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

''(B) 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 (15 U.S.C. 781 and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).''.

SEC. 1403. 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. 1404. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

(a) PREPETITION AND POSTPETITION EFFECT.—Section 523(a)(19)(B) of title 11, United States Code, is amended by inserting '', before, on, or after the date on which the petition was filed,'' after ''results''.

(b) EFFECTIVE DATE UPON ENACTMENT OF SARBANES-OXLEY ACT.—The amendment made by subsection (a) is effective beginning July 30, 2002.

SEC. 1405. APPOINTMENT OF TRUSTEE IN CASES OF SUSPECTED FRAUD.

Section 1104 of title 11, United States Code, is amended by adding at the end the following:

''(e) The United States trustee shall move for the appointment of a trustee under subsection (a) if there are reasonable grounds to suspect that current members of the governing body of the debtor, the debtor's chief executive or chief financial officer, or members of the governing body who selected the debtor's chief executive or chief financial officer, participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or the debtor's public financial reporting.''.

SEC. 1406. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

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

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—cept as provided in paragraph (2), the amendments made by this title 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 1402(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.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. 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.

SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking ''paragraph (3)'' and inserting ''paragraph (4)''; and

(ii) in paragraph (8)(D) by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(B) in subsection (b) by striking ''subsection (a)(1)'' and inserting ''subsection (a)(2)''; and

(C) in subsection (d) by striking ''subsection (a)(3)'' and inserting ''subsection (a)(1)'';

(2) in section 523(a)(1)(A) by striking ''507(a)(2)'' and inserting ''507(a)(3)'';

(3) in section 752(a) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(4) in section 766—

(A) in subsection (h) by striking ''507(a)(1)'' and inserting ''507(a)(2)''; and

(B) in subsection (i) by striking ''507(a)(1)'' each place it appears and inserting ''507(a)(2)'';

(5) in section 901(a) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(6) in section 943(b)(5) by striking ''507(a)(1)'' and inserting ''507(a)(2)'';

(7) in section 1123(a)(1) by striking ''507(a)(1), 507(a)(2)'' and inserting ''507(a)(2), 507(a)(3)'';

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking ''507(a)(1) or 507(a)(2)'' and inserting ''507(a)(2) or 507(a)(3)''; and

(B) in subparagraph (B) by striking ''507(a)(3)'' and inserting ''507(a)(1)'';

(9) in section 1226(b)(1) by striking ''507(a)(1)'' and inserting ''507(a)(2)''; and

(10) in section 1326(b)(1) by striking ''507(a)(1)'' and inserting ''507(a)(2)''.

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking ''507(a)(1)'' and inserting ''507(a)(2)''.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 211, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (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 S. 256.

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 by myself such time as I may consume.

Mr. Speaker, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This legislation consists of a comprehensive package of reform measures pertaining to consumer and business bankruptcy cases. The current system has created a set of incentives that encourage opportunistic personal filings and the abuse of a bankruptcy system originally intended to strike a delicate balance between debtor and creditor rights. These abuses ultimately hurt debtors as well as creditors, consumers as well as businesses, suppliers as well as purchasers. The only winners in the current bankruptcy system are those who game the system for personal gain.

S. 256 restores personal responsibility and integrity to the bankruptcy system and ensures that the system is fair

to both debtors and creditors. This legislation represents the most comprehensive reform of the bankruptcy system in more than 25 years.

As many of us know, bankruptcy reform has been subject to exhaustive congressional review for more than a decade, beginning with the establishment of a National Bankruptcy Review Commission in 1994. It is important to note that over the course of the last four Congresses, the House has passed bankruptcy reform on eight separate occasions by overwhelming and bipartisan margins.

This bill will help stop fraudulent, abusive, and opportunistic bankruptcy claims by closing various loopholes and incentives that have produced steadily cascading claims.

Central to these reforms is a merit-based test that reflects the commonsense proposition that those who are capable of repaying their debts after seeking bankruptcy relief must actually repay their debts. S. 256 will also give the courts greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such claims. In addition, the bill prevents violent criminals or drug traffickers from using bankruptcy relief to evade their creditors.

The bill closes the ''millionaire's mansion'' loophole in the current bankruptcy code that permits corporate criminals to shield their multimillion dollar homesteads from deserving creditors. Of critical importance, the legislation prevents deadbeat parents from abusing the bankruptcy system to shirk their child support obligations. With respect to these reforms, the National Child Support Enforcement Association stated that S. 256 is ''crucial to the collection of child support during bankruptcy.''

Some might ask why Congress has been so concerned about abuse in the bankruptcy system. The answer to this question should be obvious. It is estimated that every American household bears an annual $400 hidden tax for profligate and abusive bankruptcy filings. That is a $400 tax on every household that no politician has to vote for, but gets paid anyhow.

As a result, every abusive bankruptcy filing impacts hard-working Americans in the form of higher interest rates and increased costs of goods and service. Our economy and the hard-working Americans who sustain it should not suffer any longer from the billions of dollars in losses associated with abusive bankruptcy filings.

Mr. Speaker, this legislation not only deals with abuse in the bankruptcy system; it includes many vital consumer protections as well. S. 256 will provide the tools to crack down on bankruptcy petition mills, which often misrepresent the benefits and risks of bankruptcy relief. It will impose heightened standards of professional responsibility for attorneys who represent debtors. It will require certain credit card solicitations, monthly billing statements, and related materials to include important disclosures and explanatory statements on a broad range of credit terms and conditions, including introductory interest rates and minimum payments.

The bill also helps America's family farmers and fishermen confronting economic hard times by providing more tools to assist in their bankruptcy reorganization. The bill includes protections for medical patients in bankruptcy health care facilities and pro-privacy provisions that protect against the unwanted disclosure of personal information.

There are several other critical reforms contained in this comprehensive legislation, but the limits of time prevent an exhaustive recitation.

Mr. Speaker, the time for bankruptcy reform is long overdue. Bankruptcy reform legislation has been subject to more process, more consideration, more deliberation, more debate, and more voting than virtually any other legislative item in the past decade. We have before us legislation that represents the culmination of a decade of legislative toil and persistence. It is the product of extensive bicameral and bipartisan compromise and was approved by the other body by a vote of 74 to 25.

We also have before us a historic opportunity to return a measure of fairness and accountability to the bankruptcy system in a manner that will curb bankruptcy abuse while rewarding the vast majority of hard-working Americans who play by the rules and pay their bills as agreed upon.

Mr. Speaker, I urge my colleagues to seize this opportunity to join me in supporting this legislation.

Mr. Speaker, before closing, I include for the RECORD a supplemental statement acknowledging the hard work of many Members and staff who have helped make this legislation possible, as well as a summary of the principal provisions of this bill.

Mr. Speaker, over the many years this legislation has been pending in the Congress, many Members, Senators, and staff members have devoted themselves to making S. 256 a reality. I would like to take this opportunity to recognize these individuals.

Beginning with my colleagues in the House, I would like to mention the many contributions of the Chairman of the Subcommittee on Commercial and Administrative Law (Mr. CANNON) for his hard work on behalf of this legislation. The Chairman of the Financial Services Committee (Mr. OXLEY) has also been a great resource. I also appreciate the contributions of my colleagues on the other side of the aisle, the Ranking Member of the Judiciary Committee (Mr. CONYERS) and the gentleman from Virginia (Mr. BOUCHER). Former Members should also be recognized for their contributions. Bill McCollum is to be commended for being the first to introduce comprehensive bankruptcy reform and George Gekas deserves our gratitude for his tireless efforts.

In addition, I would like to mention the following staff on the Judiciary Committee for their contributions: Phil Kiko, Majority Committee General Counsel and Chief of Staff; Rob Tracci, Chief Legislative Counsel and Parliamentarian; Raymond Smietanka, Chief Counsel, Subcommittee on Commercial and Administrative Law; Perry Apelbaum; David Lachmann; Matt Iandoli, Legislative Director for Representative CANNON; Todd Thorpe, Chief of Staff for Representative CANNON; Laura Vaught, Deputy Chief of Staff for Representative BOUCHER; Jean Harmann, House Legislative Counsel and Dina Ellis, Counsel for the House Financial Services Committee.

Former staffers who should also be recognized, include Will Moschella, Joe Rubin, Alan Cagnoli, and Liz Trainer.

The vital and indispensable efforts of one staff member have uniquely contributed to the bankruptcy reform legislation we consider today. From her service as general counsel on the congressionally-created National Bankruptcy Review Commission to her often behind the scenes work on bankruptcy reform legislation extending to the 105th Congress, Susan Jensen, counsel to the Judiciary Subcommittee on Commercial and Administrative Law, deserves special recognition. Her technical expertise in a complex area of law has resulted in dramatic improvements in successive drafts of bankruptcy reform legislation and helped establish a record of legislative history that elucidates the legislation we consider today. Her professionalism, attention to detail, and commitment to serving the House of Representatives deserves the recognition and commendation of this House.

I would also like to acknowledge the countless contributions of our colleagues in the other body. These include Senators GRASSLEY, HATCH, SESSIONS, SPECTER, BIDEN and LEAHY.

This legislation has also benefitted from the hard work and devoted assistance of numerous Senate staff members. These include, Rita Lari, counsel for Senator GRASSLEY, who has been a wonderful resource for our staff. In addition, the following individuals must also be acknowledged: Harold Kim and Tim Strachan, counsels for Senator SPECTER; Perry Barber, Rene Augustine, and former staffer Makan Delrahim, counsels for Senator HATCH; and Ed Pagano, Chief of Staff for Senator LEAHY.

SUMMARY OF PRINCIPAL PROVISIONS OF S. 256, ''THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005''

CONSUMER BANKRUPTCY REFORMS

Abuse prevention: S. 256 instills a greater level of personal responsibility by closing various loopholes and eliminating incentives in the current bankruptcy system that encourage opportunistic consumer bankruptcy filings and abuse. The bill's needs-based provisions target, for example, those debtors who have a demonstrated ability to repay their debts and channels them into a form of bankruptcy relief that requires debt repayment. Courts, under S. 256, are given greater powers to dismiss abusive bankruptcy cases and to punish attorneys who encourage their clients to file such cases. Debtors who have committed crimes of violence or engaged in drug trafficking will no longer be able to use bankruptcy to hide from their creditors. Likewise, deadbeat parents will be prevented from using bankruptcy to shirk their child support obligations. In addition, this legislation prevents debtors from avoiding their responsibility to pay for luxury goods and services purchased on the eve of filing for bankruptcy.

Needs-based reforms: S. 256 implements an income and expense analysis to determine

whether a debtor has a demonstrated ability to repay a significant portion of his or her debts. If a debtor has the ability to repay debts, he or she must either be channeled into a form of bankruptcy relief that requires repayment or risk having the bankruptcy case dismissed as an abusive filing. This needs-based test specifies certain expense amounts—derived from IRS expense standards and other specified expenses—that are deducted from the debtor's income. These include expenses for food, clothing, housing, and transportation as well as certain educational expenses for the debtor's children. The debtor may rebut the presumption of abuse by demonstrating special circumstances warranting additional expenses or income adjustment.

Spousal and child support protections: S. 256 prioritizes the collection and payment of spousal and child support in bankruptcy cases by giving these claims the highest payment priority (current law gives these claimants an only 7th level payment priority). The bill requires bankruptcy trustees to give child support claimants important information about the availability of state child support enforcement assistance and to notify the proper state child support enforcement authorities of the deadbeat parent's bankruptcy filing. S. 256 allows various enforcement actions to be brought against a bankrupt deadbeat parent, including the withholding of his or her driver's license, or the suspension of the debtor's professional or occupational license. It also allows state child support enforcement agencies to intercept a debtor's tax refund for nonpayment of spousal or child support. In addition, it ensures that a deadbeat parent do not escape responsibility to pay a child's medical bills. The National Child Support Enforcement Association says S. 256's reforms are ''crucial to the collection of child support during bankruptcy.''

Closes the ''mansion loophole'' for greedy corporate culprits: Under current bankruptcy law, debtors living in certain states can shield from their creditors virtually all of the equity in their homes. In light of this, some debtors actually move to these states just to take advantage of their ''mansion loophole'' laws. S. 256 closes this loophole for abuse by requiring a debtor to reside in the state for at least 2 years before he or she can claim that state's homestead exemption—the current residency requirement is only 91 days! The bill further reduces the opportunity for abuse by requiring a debtor to own the homestead for at least 40 months before he or she can use state exemption law—current law imposes no such requirement. In addition, S. 256 requires a debtor's homestead exemption to be reduced for to the extent attributable to the debtor's fraudulent conversion of nonexempt assets (e.g., cash) into a homestead exemption. Most importantly, the bill stops securities law violators and other culprits from hiding their homestead assets from those whom they have defrauded or injured If a debtor was convicted of a felony, violated a securities law, or committed a criminal act, intentional tort, or engaged in reckless misconduct that caused serious physical injury or death, S. 256 overrides state homestead exemption law and caps the debtor's homestead exemption at $125,000.

Debtor protections: S. 256 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 consequences. The bill also requires debtors, after they have filed for bankruptcy, to participate in financial management instructional courses so they can hopefully avoid future financial distress. S. 256 penalizes creditors who unreasonably refuse to negotiate a pre-bankruptcy debt repayment plan with a debtor. The bill strengthens the disclosure requirements for reaffirmation agreements so that debtors will be better informed about their rights and responsibilities. In addition, S. 256 requires certain monthly credit card billing statements to include specified disclosures regarding the increased interest and repayment time associated with making minimum payments. The bill also requires certain home equity loan and credit card solicitations to include enhanced consumer disclosures. S. 256 prohibits a creditor from terminating an open end consumer credit plan simply because the consumer has not incurred finance charges on the account. Further, the bill cracks down on bankruptcy petition mills and imposes heightened standards of professional responsibility for attorneys who represent debtors.

BUSINESS BANKRUPTCY AND OTHER REFORMS

Protections for small business owners: Under current bankruptcy law, a business can be sued by a bankruptcy trustee and forced to pay back monies previously paid to it by a firm that later files for bankruptcy protection. S. 256 contains provisions making it easier—particularly for small businesses—to successfully defend against these suits.

Promotes greater certainty in the financial market place: S. 256 reduces systemic risk in the banking system and financial marketplace by minimizing the risk of disruption when parties to certain financial transactions become bankrupt or insolvent. Federal Reserve Board Chairman Alan Greenspan says these reforms are ''extremely important.''

Family farmers: S. 256 helps small family farmers facing financial distress. While current bankruptcy law has a specialized form of bankruptcy relief—Chapter 12—that is specifically designed for family farmers, its benefits for farmers are limited because of its restrictive eligibility requirements. The bill responds to this problem in several key respects: it more than doubles the debt eligibility limit and requires it to be periodically adjusted for inflation; it lowers the requisite percentage of a farmer's income that must be derived from farming operations; and it gives farmers more flexibility with respect to how certain creditors can be repaid. As a result, many more deserving family farmers facing financial hard times will be able to avail themselves of Chapter 12. In addition, S. 256 makes Chapter 12 a permanent component of the bankruptcy laws and extends the benefits of this form of bankruptcy relief to family fishermen.

Small business debtors: S. 256 addresses the special problems presented by small business debtors by instituting firm deadlines and enforcement mechanisms to weed out those debtors who are not likely to reorganize. It also requires the court and other designated entities to monitor these cases more actively.

Transnational insolvencies: In response to the increasing globalization of business dealings and operations, S. 256 establishes a separate chapter under the Bankruptcy Code devoted to transnational insolvencies. These provisions are intended to provide greater legal certainty for trade and investment as well promote the fair and efficient administration of these cases.

Privacy protections: Under current law, nearly every item of information supplied by a debtor in connection with his or her bankruptcy case is made available to the public. S. 256 prohibits the disclosure of the names of the debtor's minor children and requires such information to be kept in a nonpublic record, which can be made available for inspection only by the court and certain other designated entities. In addition, if a business debtor had a policy prohibiting it from selling ''personally identifiable information'' about its customers and the policy was in effect at the time of the bankruptcy filing, then S. 256 prohibits the sale of such information unless certain conditions are satisfied.

Protections for employees: S. 256 requires certain back pay awards granted as a result of the debtor's violation of Federal or State law to receive one of the highest payment priorities in a bankruptcy case. In addition, S. 256 streamlines the appointment of an ERISA administrator for an employee benefit plan, under certain circumstances, to minimize the disruption that results when an employer files for bankruptcy relief. In light of the disaterous impact that bankruptcy cases like WorldCom and Enron have had on their employees, reforms that more than double current the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code. Other provisions would protect retirees in cases where Chapter 11 debtors unilaterally modify their benefits, such as health insurance. These reforms would also make it easier to recover excessive pre-petition compensation, such as bonuses, paid to insiders of a debtor that can then be used to pay unpaid employee wage claims.

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

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

Mr. Speaker, this is the most special interest-vested bill that I have ever dealt with in my career in Congress. It massively tilts the playing field in favor of banks and credit card companies and against working people and their families. I have never, ever faced such a piece of legislation. That explains to me why it took 8 years to get this thing up here, because they kept fixing it up, making it wrong.

Mr. Speaker, all I want to say as we open this debate is that to those who assert that this bill cracks down on creditor abuse, I would ask them to realize that this bill does absolutely nothing to discourage abusive, underage lending; nothing to discourage reckless lending to the developmentally disabled; nothing to regulate the practice of sub-prime lending to persons with no means or little ability to repay their debts; nothing to crack down on the sharks, the lenders, that charge members of the Armed Forces up to 500 percent interest per year or more. They hang around the bases and lure them in.

What this is is something that we should all be truly embarrassed about. This bill is opposed by every consumer group, by all the bankruptcy judges, the trustees, law professors, by all of organized labor, by the military groups, by the civil rights organizations, and by every major group concerned about seniors, women, and children.

Please, if we do not do anything else in the 109th Congress, let us not let this bill get out of the House of Representatives.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman

from Virginia (Mr. BOUCHER) to show that this is truly a bipartisan effort.

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

Mr. BOUCHER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the reform of the nation's bankruptcy laws which our actions today will accomplish is well justified. This reform is strongly in the interests of consumers. It will significantly reduce the annual hidden tax of approximately $400 that the typical consumer pays because others are misusing the bankruptcy laws. That amount represents the increased cost of credit and the increased price of goods and services caused by bankruptcy law misuse. This reform will lower that hidden tax.

The reform also helps consumers by requiring clearer disclosures of the cost of credit on credit card statements, and the reform will be a major benefit to single parents who receive alimony or child support. That person today is fifth in priority for the receipt of payment under the bankruptcy laws. The reform before us today elevates the spouse support recipient to number one in priority.

This reform proceeds from the basic premise that people who can afford to repay a substantial portion of what they owe should do so. The bill requires that repayment while allowing a discharge in bankruptcy of the debts that cannot be repaid. In so doing, it responds to the broad misuse of chapter 7's complete liquidation provisions that we have observed in recent years.

The reform measure sets a threshold for the use of chapter 7. Debtors who can make little or no repayment can use its provisions and discharge all of their debts. Debtors whose annual income is below the national mean of about $50,000 per year are untouched by this reform. They can make full use of chapter 7 and discharge all of their debts, whether or not they can afford to make repayments.

This reform imposes a modest measure of personal responsibility that is well justified, and I urge its approval by the House.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the committee.

Mr. DELAHUNT. Mr. Speaker, let me just suggest the following, with all due respect to my friend from Wisconsin and my friend from Virginia.

□ 1345

The figure of $400 is a mythical figure. It is inaccurate.

In addition to that, be rest assured, if you are a consumer, you will not benefit one penny from this bill. Do my colleagues know who is going to benefit? The credit card industry. Anyone familiar with the history of this bill knows that it was written by and for the credit card industry, and they spent north of $40 million to make sure that they got what they wanted.

The American people are the losers here, unless you happen to be a senior executive of a credit card company or an investor in credit card companies, because they are going to make a good score here today, but the American taxpayer is going to pay for it.

According to the CBO, the bill will cost taxpayers $392 million over a 5-year period and simultaneously reduce tax revenue by $456 million, increasing the budget deficit, by the way, that we are all so concerned about. The bill is nothing more than a public subsidy for one of the most profitable businesses in our economy.

What is sad is that we could have produced legislation which would have been fair and balanced. We continue to hear that fair and balanced theme, but the credit card industry would not allow it. They would not tolerate any effort to make them accountable, no matter how minimal.

To cite just one example, myself and the gentleman from North Carolina (Mr. WATT) proposed an amendment to limit the interest charged on a credit card to 75 percent. I said 75 percent. The credit card industry said, no; and, of course, their supporters defeated our amendment; and this amendment is not before us today. I would suggest 75 percent is not bad, even by Mafia standards. Loan sharking used to be a crime in this country. Maybe this bill should be renamed as the Loan Sharking Decriminalization Act of 2000.

We hear the term personal responsibility, but when it comes to the concept of corporate responsibility, silence.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), the chairman of the Subcommittee on Commercial and Administrative Law.

Mr. CANNON. Mr. Speaker, I rise in support of Senate bill 256 and urge its adoption by the House.

Whether or not we have a cost of $400 per household or some other cost, I think it is clear to all Americans that we pay a cost if we have excessive bankruptcies in America. What we are looking for here is workable markets where consumers have the opportunity to borrow money at the lowest cost. Hopefully, they are not above 18 percent; certainly not at 75 percent. The market does a remarkable job for that purpose.

For more than 7 years now, almost as long as I have been in Congress, we have struggled with the rising tide of bankruptcy abuse which threatens the delicate balance in this country between creditors and debtors. As this reform measure has developed, slowly, inexorably, we have dealt with each issue: framing, debating, considering, and ultimately resolving each controversy. Progressive Congresses have moved toward ultimate resolution, until finally today the House has been presented with a bill that it can send directly to the President for signature.

As chairman of the Subcommittee on Commercial and Administrative Law, I take considerable satisfaction that, through collective effort, we would be able to achieve what many said would never happen. We have crafted fair and balanced legislation dealing in a straightforward manner with a problem that has vexed the Nation for the past decade and threatens economic growth and stability. By the way, the Bankruptcy Act has not been amended for 25 years in a serious way.

The American people will truly be well served by this effort. This bill is a rare achievement of reducing disparity in the bankruptcy system. It establishes more uniform and predictable standards. It strengthens the integrity of the bankruptcy process. It deals with the continuing wave of bankruptcy filings and abuse of State homestead exemptions. It will reinforce the public perception that the system is fair for all participants. It improves the administration of the bankruptcy process. And, finally, it restores a measure of personal responsibility to the bankruptcy system that is spiraling out of control.

Mr. Speaker, my constituents need this legislation, and America needs this legislation, and I urge support today for S. 256.

I would also note that the need for additional bankruptcy judgeships may need to be considered to reflect the numbers submitted by the Judicial Conference's most recent report. Additional judgeships are sorely needed in a number of districts across the country, including my State of Utah. I was heartened by the assurance of the chairman of the Committee on the Judiciary during the markup of Senate 256 that this matter will be considered later this year. In that regard, I would like to thank the gentleman from Georgia (Mr. KINGSTON) who has worked tirelessly on the issue of expanding the number of bankruptcy judges we have to meet this need.

Mr. Speaker, at this point I will place additional information on the bill in the RECORD.

During the course of the Senate Judiciary Committee's consideration of S. 256, a provision was added to deal with excessive retention bonuses, severance payments and other forms of inducements paid by a debtor to retain key personnel or otherwise induce a debtor's management to remain with the debtor.

This provision addresses serious conserns and I support the intent of its drafters. Nevertheless, this provision should not be construed to invalidate all key employee retention programs for companies that may someday wind up in Chapter 11. It is very important that a Chapter 11 debtor be able to retain management that is dedicated to maintaining the company's value for the benefit of its creditors, investors, employees, and other stakeholders. All too often, companies that fail to reorganize successfully are converted to Chapter 7 for liquidation, where creditors receive pennies on the dollar and employees face job dislocation.

Where appropriate, key employee retention programs may be necessary to bring a company in financial distress successfully through the Chapter 11 process. Accordingly, section 331 of S. 256 should not be applied to invalidate such programs where there is no evidence of insider negligence, mismanagement, or fraudulent conduct contributed to a company's insolvency—in whole or in part.

Given the possibility that the intent of the Congress with respect to this provision and the interpretation of Section 331's text may not be consistent, legislation clarifying language may be necessary. If so, I will work with my colleagues in the House and Senate to address any such inconsistencies.

I ask that a letter from the Association of Insolvency and Restructuring Advisors be printed at this point in the RECORD.

ASSOCIATION OF INSOLVENCY,
AND RESTRUCTURING ADVISORS,
Medford, OR, March 1, 2005.

Senator ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned are financial and legal professionals who serve as the Board of Directors of the Association of Insolvency and Restructuring Advisors (AIRA). As board members we work to further the AIRA's goal of increasing industry awareness of the organization as an important educational and technical resource for professionals in business turnaround, restructuring, and bankruptcy practice, and of the Certified Insolvency and Restructuring Advisor (CIRA) designation as an assurance of expertise in this area.

We write to make you aware of serious concerns we have regarding a provision contained in S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.'' The provision in question effectively prohibits the use of key employee retention plans in Chapter 11 reorganizations. It was added during the Judiciary Committee mark-up of the bill and elicited little attention at the time. However, we believe this provision will cause considerable harm to a number of companies that will become subject to bankruptcy proceedings, and, most importantly, to their employees, customers, and creditors.

When a company is operating in Chapter 11, a primary responsibility of management is to maintain and grow the company's value for the benefit of all of its stakeholders. A company that is well-managed through its restructuring benefits its creditors, employees, retirees, unions and the local communities of which the company is a part. Companies that fail to successfully reorganize in Chapter 11 are liquidated. Creditors receive pennies on the dollar and employees see their jobs and retirement savings destroyed.

When companies enter Chapter 11, it is critical that they attract and retain top management talent. But Chapter 11 is also the most difficult time to attract and retain such talent. Managers of Chapter 11 companies are faced with intense scrutiny, stress, insecurity, and an enormously complex process. Compensation and incentive tools used by non-bankrupt companies such as equity compensation programs are not available to assist with attracting and retaining the type of management talent necessary to bring the company successfully through the Chapter 11 process—this is because the pre-petition equity is almost always without value. Key employee retention plans (''KERPs'') have become common practice since the early 1990's and have been viewed by courts, debtors, and creditors alike as an important and useful way to help reorganization by retaining key employees.

Bankruptcy courts have agreed with this reasoning, and many judges have used their judicial discretion to approve KERPs. For a court to approve a KERP under existing law, however, a debtor must use proper business judgment in formulating the program, and the court must find the program to be reasonable and fair. Creditors have the right to object to proposed KERPs, and judges are presented with a full evidentiary record upon which to make a determination. If a KERP is not appropriate or if it is not in the best interest of the company's creditors, the judge can refuse to approve it.

In the last few years, there has been a trend, with which we agree, towards stricter judicial scrutiny of proposed KERPs by bankruptcy judges. Such a trend seems appropriate in the wake of numerous high profile bankruptcy filings where management's misconduct or mismanagement has led to the Chapter 11 filing. Judges have discretion to deny KERPs in these circumstances, and they do so when the facts and circumstances warrant.

Unfortunately, S. 256 as reported by the Senate Judiciary Committee includes an amendment authored by Senator Edward M. Kennedy (the Kennedy amendment) that places significant limits on retention bonuses and severance payments to employees of companies in Chapter 11. It would prohibit a bankruptcy judge from approving retention bonuses in every Chapter 11 case unless he or she finds that the company in question has proven that the employee has a bona fide job offer at the same or greater rate of compensation; was prepared to accept the job offer; and the services of that employee are ''essential to the survival of the business.'' The amendment also places significant caps on the amount of such bonus and payments.

The Kennedy amendment appears to be motivated by a desire to combat KERPs in Chapter 11 cases where employee-related fraud substantially contributed to the bankruptcy of the company. Yet, by painting with such a broad brush, the Kennedy amendment will, if enacted, effectively eliminate all companies' ability to ever receive court approval for a KERP. Federal bankruptcy judges would have little or no discretion to approve KERPs. In turn, bankrupt companies would have less flexibility in trying to retain or attract necessary employees. This result will cause considerable harm to companies in bankruptcy, their employees, and their creditors.

It is apparent that the Kennedy amendment is designed to prevent abuses of the system, where creditors', employees' and retirees' monies are unnecessarily expended for the enrichment of management. Whether there currently is or is not sufficient judicial scrutiny of KERPs is a valid question, insofar as the overall bankruptcy system allows debtors a fair amount of flexibility in exercising reasonable judgment—but there must be an approach better than handcuffing the judiciary and stakeholders in bankruptcy cases by essentially precluding all use KERPs. The proper use of KERPs requires an analysis of all facts and circumstances of the case, and not what is essentially a blanket proscription of these tools.

Senator Kennedy has advanced an important public policy discussion with his amendment. Managers who have had responsibility for driving a company into bankruptcy should not be paid a bonus to remain. Similarly, if the retention of an employee would not enhance a company's value for its stakeholders, they should not be paid a bonus to stay. Current law provides bankruptcy judges with the discretion necessary to deny a KERP in such circumstances and bankruptcy judges do deny KERP payments in these circumstances. Still, if the Congress wishes to improve the operation of current law while still safeguarding the ability of the courts to approve legitimate KERPs, we would welcome a discussion on how best to achieve that end. Unfortunately, S. 256, as reported by the Committee, goes too far and should be amended so as not to unnecessarily limit the bankruptcy court's ability to determine what is in the best interest of each individual bankruptcy estate.

Mr. Chairman, we thank you for considering our views on this important matter. We would be pleased to address any questions you or other members of the Committee on the Judiciary may have.

Sincerely,

The members of the board and management of the Association of Insolvency and Restructuring Advisors.

Soneet R. Kapila, CIRA, Kapila & Company; President, AIRA.

James M. Lukenda, CIRA, Huron Consulting Group; Chairman, AIRA.

Grant Newton, CIRA, Executive Director, AIRA.

Daniel Armel, CIRA, Baymark Strategies LLC.

Dennis Bean, CIRA, Dennis Bean & Company.

Francis G. Conrad, CIRA, ARG Capital Partners LLP.

Stephen Darr, CIRA, Mesirow Financial Consulting LLC.

Louis DeArias, CIRA, PricewaterhouseCoopers LLP.

James Decker, CIRA, Houlihan Lokey Howard & Zukin.

Mitchell Drucker, CIT Business Credit.

Howard Fielstein, CIRA, Margolin Winer & Evens LLP.

Philip Gund, CIR, Marotta Gund Budd & Dzera LL.

Gina Gutzeit, FTI Palladium Partners.

Alan Holtz, CIRA, Giuliani Capital Advisors LLC.

Margaret Hunter, CIRA, Protiviti Inc.

Alan Jacobs, CIRA, AMJ Advisors LLC.

David Judd, Neilson Elggren LLP.

Bernard Katz, CIRA, JH Cohn LLP.

Farley Lee, CIRA, Deloitte.

Kenneth Lefoldt, CIRA, Lefoldt & Company.

William Lenhart, CIRA, BDO Seidman LLP.

Kenneth Malek, CIRA, Navigant Consulting Inc.

J. Robert Medlin, CIRA, FTI Consulting Inc.

Thomas Morrow, CIRA, AlixPartners LLC.

Michael Murphy, Mesirow Financial Consulting LLC.

Steven Panagos CIRA, Kroll Zolfo Cooper LLC.

David Payne, CIRA, D R Payne & Associates Inc.

David Ringer, CIRA, Eisner LLP.

Anthony Sasso, CIRA, Deloitte.

Matthew Schwartz, CIRA, Bederson & Company LLP.

Keith Shapiro, Esq., Greenberg Traurig LLP.

Grant Stein, Esq., Alston & Bird LLP.

Peter Stenger, CIRA, Stout Risius Ross Inc.

Michael Straneva, CIRA, Ernst & Young LLP.

Mr. Speaker, I urge again the adoption of S. 256.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from North Carolina (Mr. WATT), the ranking member of the Subcommittee on Commercial and Administrative Law.

Mr. WATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, those of us who started this process 6 years or so ago in the good faith belief that there were problems with the bankruptcy system, in the sense that people were gaming the system, and felt that there needed to be genuine reform cannot help but be disappointed today because, in the process, we have lost sight of the objective of reforming to do away with the sinister influences and the advantageous corruption that is going on in the system.

I have never seen a bill that has violated more principles throughout this process. The first one was that the consumers and the lenders got together and decided that, because the lenders were not sure that they could do bankruptcy reform without reaching a compromise and the consumer groups realized that they might not be able to stop bankruptcy reform, they set up this system called the means test, which effectively exempted from the whole bankruptcy reform system those who fall below the means test threshold. The result is that individuals who fall below the means test threshold can continue with impunity to game the system without any kind of responsibility, and those who fall above the threshold get subjected to a set of arbitrary rules that, even if they are not gaming the system, they are taken advantage of. So we have lost sight of that.

The second thing is we have built in a set of perverse incentives for easy credit now. For people who fall below the means test, there is really no disincentive for them to go out and get as much credit as they can. And for people above the means test there is no incentive for lenders to be responsible in their lending practices, because they know now they have this system that is going to protect them from people that they have made irresponsible loans to.

The third problem is that, as we have gone through this process, the more we have bought into this means test philosophy and debated this, we now get to a point at the end of the process where it has corrupted even our democratic process. Because we are here on the floor with 30 minutes of debate on our side to tell the public the problems with this bill.

This is irresponsible legislating at its worst, and I encourage my colleagues to reject this bill and vote no.

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

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), the former ranking member of the Subcommittee on Commercial and Administrative Law. This is an 8-year-old bill, and the gentleman has been foremost in this process for all of those years.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class than I have ever seen in my public life. The people who understand how bankruptcy law functions in the real world, the scholars, judges, trustees and lawyers, whether they represent debtors, creditors, businesses or individuals, have all told us this bill will not work, that it will be costly, and that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants a special favor; and, boy, are there special favors galore.

The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we have investigated for dishonest activity, they now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims, they get their wish. Landlords who want to boot tenants out of their apartments, it is easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in the bill just to squeeze more money out of debtors.

Are you a pawnbroker? Section 1230 is for you. You get to keep the pawned property, and it cannot be sold to pay other debts like child support or medical expenses. That is right. Congress is more worried about the rights of pawnbrokers than about the rights of children.

So what is going on here? Why are bankers and bureaucrats telling us this bill is great for single parents with children while children and family advocates are telling us that it is not? Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and nonpartisan American Bankruptcy Institute, and the Government Accountability Office, all say these studies are bunk?

The supporters say if we help the banks collect more money from bankrupt families, we will not have to pay that $400 bankruptcy tax. Our interest rates will go down because the banks will be able to collect more money. But the Republican leadership would not allow us to consider an amendment that would sunset the bill in several years if no savings are passed on to consumers, and they will not be. Interest rates have come down over the last 10 years on mortgages, on cars, on everything, but not on credit cards.

Does anyone here trust VISA and MasterCard? Because we are writing them a blank check paid for with taxpayer money and trusting them to share the benefits with American consumers. Trust the banks. Trust the lobbyists. Do not trust the people who do these cases for a living. Do not trust the advocates for women and kids. Do not trust the civil rights community. Do not trust the laboring community. Do not trust disabled veterans and military family advocates. Do not trust crime victims organizations.

Trust the banks. Trust the credit card companies. Trust VISA card. Trust MasterCard. They are the beneficiaries. The public will be the victims, and we will rue the day in a few years when the 60 or 70 different ways in which this bill enables the credit card companies to stick their hands in the pockets of low- and middle-income people and extremists going bankrupt because of a medical emergency, and take more money out of that. Then the voters will know who really owns this place.

Mr. Speaker, this bill is the worst giveaway to special interests, the worst rip-off of the public, of the middle class, I have ever seen in my public life.

Mr. Speaker, it is fitting that this House take up this 512-page goodie bag for every special interest in town. Just yesterday, the Republican majority rammed through a bill that would eliminate the estate tax for the very wealthiest Americans. At least the Republican majority is consistent: more for the very wealthy, no responsibility for big banks, and squeeze the middle class.

This bill, which can only be described as the poster-child for campaign finance reform, will soon shoot through this House and to a President who has vowed that he would sign it.

Mr. Speaker, bankruptcy is notoriously complicated, but the members of this House have certainly never let the complexity of a problem get in the way of a good deal. The people who understand how bankruptcy law functions in the real world: the scholars, judges, trustees, and lawyers—whether they represent debtors, creditors, businesses or individuals—have all told us this bill won't work, that it will be costly, that it will produce unfair and irrational results. But we are ignoring them, trusting instead lobbyists, credit card companies, banks, and anyone else who wants some special favor.

And boy, are there favors galore. The credit card companies are the big winners, but so are shopping centers, car lenders, crooked debt collectors, investment bankers, credit unions, and assorted sub-prime lenders.

Those credit counseling operations that we've investigated for dishonest activity? They now get a monopoly on granting access to bankruptcy. Credit card companies that want their debts to survive the bankruptcy and compete with child support claims? They get their wish?

Landlords who want to boot tenants out of their apartments? This bill makes it easier.

Did you buy a trailer home or a car on credit? Now you will have to pay the lender more than the home or car is worth to keep it.

Are you a tax collector? There is an entire title in this bill just for you to squeeze more money out of debtors.

Are you a pawn broker? Section 1230 is for you! You get to keep the pawned property and it can't be sold to pay other debts, like child support, or medical expenses. That's right, Congress is more worried about the rights of pawn brokers than about the rights of children.

So what's going on here? Why are bankers and bureaucrats telling us that this bill is great for single parents with children while children and family advocates are telling us that it is not? More to the point—why are so many members of Congress so willing to believe bankers over the people who we work with day in and day out to protect the rights of children?

Why does Congress believe studies paid for by the credit card industry that label millions of Americans crooks, while ignoring our own Congressional Budget Office, the independent and non-partisan American Bankruptcy Institute, and the Government Accountability Office, all of whom tell us these studies are bunk?

Why are we willing to spend so much public money to collect private debts for banks? According to the Congressional Budget Office, this bill will cost the government $392 million over the first 5 years, increasing the deficit by $280 million. It will impose new costs on the private sector of more than $123 million per year, in violation of the Unfunded Mandate Reform Act. That number does not include increased costs to debtors.

What are we spending this money on?

Means testing alone will cost the government $150 million over the first 5 years.

The government will be a private collection agency for credit card companies. Government funded audits will cost $66 million. The government will collect and store debtors' tax returns for another $10 million.

Just to administer this whole mess, we will spend another $26 million on extra judges—and no one here thinks that will be enough.

So why should taxpayers spend all these millions to collect private debts for MasterCard and Visa? I asked George Wallace, the representative of the creditor coalition, that question. I asked whether he was aware that current law gives creditors the right to challenge the discharge of debts, examine debtors under oath, demand any documents from the debtors, seek dismissal of a case, and many other legal remedies.

He said ''I have done these things and they do take a fair amount of time and I bill my clients for them. They are expensive.'' So I asked him why the government should pay to collect these debts if the banks think it's too expensive to collect their debts themselves.

His response explains this whole bill. ''Because it's a governmental program, sir. Because it is not the job of the creditor.''

A governmental program? We need to spend millions of taxpayer dollars to help the nation's biggest banks collect money from bankrupt families? Is this the new welfare?

I want to thank Mr. Wallace for his honesty. He may be the only honest lobbyist left in Washington.

Some will say that if we help the banks collect more money from bankrupt families, then we won't have to pay that $400 ''bankruptcy tax.'' Our interest rates will go down because the banks will be able to collect more money.

The distinguished chairman of the Judiciary Committee has made this the cornerstone of the legislation. He recently told the Financial Times of London, ''The responsible thing for the credit card issuers to do would be to reduce interest rates because there is less risk. If they don't they will play into the hands of the opponents of the bill—it would reduce their credibility.''

I agree, but the Republican leadership wouldn't allow us to consider an amendment that would sunset the bill in 2 years if no savings are passed on to consumers. So I guess we're being asked to trust the biggest banks in America not to pocket the extra money. And they won't be. Interest rates have come down. Mortgage rates, car loans, but not credit card rates.

Ask yourself: Where's my $400? Does any one here trust Visa and MasterCard? Because you are writing them a blank check, paid for with taxpayer money, and trusting them to share the benefits with American consumers.

Anyone who really trust them to do this, raise your hand. Anyone?

Go ahead and vote for this. Why not? It's a done deal. Trust the banks. Trust the lobbyists. Don't trust the people who do these cases for a living. Don't trust the advocates for women and kids. Don't trust the civil rights community. Don't trust labor. Don't trust disabled veterans' and military family advocates. Don't trust crime victims organizations. Trust the banks. Trust Visa. Trust MasterCard.

At least the voters will know who really runs this place.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The Chair reminds Members that they should heed the gavel.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Speaker, bankruptcy filings are at an all-time high. When bankruptcy filings increase, every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eighty times. S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, is the culmination of years of work and bicameral as well as bipartisan negotiations.

A key aspect of S. 256 is 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 VII will be granted to those who need them, while debtors that can afford to repay some of their debts are steered toward filing chapter 13 bankruptcies.

S. 256 is good for America's family farmers. As Chairman of the House Committee on Agriculture, I am pleased that we are finally making the chapter 12 provisions of the Bankruptcy Code permanent. Bankruptcy relief for family farmers will be made easier for those to obtain a discharge of their indebtedness. In addition, the bill allows more family farmers to qualify for chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

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In addition, S. 256 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 wind away. What these people may not realize or care about is that these debts do not just disappear. They are passed along in higher charges and rates to hard working people.

Mr. Speaker, I rise in strong support of the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.''

Bankruptcy filings are at an all time high. When Bankruptcy filings increase every American must pay more for credit, goods, and services through higher rates and charges. It is time that we relieve consumers from the burden of paying for the debts of others.

Since the 105th Congress, the House has passed bankruptcy reform legislation eight times. S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005'' is the culmination of years of work and bicamerla, as well as bi-partisan negotiations.

A key aspect of S. 256 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 that can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

S. 256 is good for America's family farmers, who are the backbone of our agriculture industry. The bill permanently extends Chapter 12 bankruptcy relief for family farmers and makes it easier for family farmers to obtain discharges of their indebtedness. In addition, the bill allows more family farmers to qualify for Chapter 12 relief by doubling the debt limit and lowering the percentage of income that must be derived from farming operations.

In addition, S. 256 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 or care about is that these debts do not just disappear—they are passed along in higher chargers and rates to hard-working folks who pay their bills on time. S. 256 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargable debts made in the period immediately preceding their filing.

S. 256 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, it protects consumers from ''bankruptcy mills'' that encourage people to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

S. 256 also ensures the fair treatment of those that administer our bankruptcy laws. Specifically, this legislation restores fairness and equity to the relationship between the U.S. trustee and private standing bankruptcy

trustees by providing 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 removal. This compromise, worked out between the U.S. trustee's 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. trustee is subject to the same checks and balances as other government agencies.

Bankruptcy should remain available to people who truly need it, but those who can afford to repay their debts should repay their debts. S. 256 provides bankruptcy relief for those who truly cannot pay their debts, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that S. 256 strikes the appropriate balance between these two important goals. I want to commend Chairmen SENSENBRENNER and CANNON for their tremendous work on this legislation, and I urge each of my colleagues to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), a member of the committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important as we debate this question that the opponents of this bill not be defined or classified as opposing responsibility and opposing the responsibility of being a good citizen and adhering to the debt that you accrue. I think that is a wrong-headed definition of the opponents.

We have been described as nonpatriot in other debates; in war and peace, scoundrels and socialists. But I think it is important for the American people to understand that we are engaging in a democratic process to be able to allow a voice of opposition to be heard for a tainted, stale and stagnant piece of legislation that has been bought and paid for by special interests.

Our desire is to possibly encourage our colleagues in the House to take a serious and deliberative review of S. 256.

Now, we have heard already that we were refused and denied amendments and one would ask the question why. If we are a deliberative body, why not make a bill that is as dated almost as the Gulf War, not the Iraq war, to make it better.

Now, I hear my colleagues talking about $400 that will go to each household. What a misnomer. Someone said that there was a tax refund a couple of years ago, $350, $400. I can tell you that the constituents in the 18th Congressional District never saw that money. I would like to suggest to you that really what is happening is what Professor Elizabeth Warren has said, that this is an overreaching problem, the overreaching problem with this bill this time is that the American economy has passed it by.

We are in the depth almost of a deficit that is about to stagnate and stifle us. This bill will close the door to working and middle class persons. Since this bill was written, Mr. Speaker, Enron, WorldCom, Adelphia, United Airlines, LTV Steel, M-Mart, Polaroid, Global Crossing have filed bankruptcy and they did not have to use a means test.

So let me suggest to you as I look at the medical conditions, I would ask my colleagues on the other side of the aisle does their stale old bill, this stack of old papers respond to the medical causes of bankruptcy that shows that because there is death in the family, illness or injury, people who go try to repay their bills and they fall into bankruptcy and this old stale 1998 bill does not respond to that.

My next question, Mr. Speaker, is whether or not this old stale bill deals with the military, the military who is in Iraq right now, does this old stale bill deal with it? Does the old stale bill deal with the loan sharks. That is a travesty and should be defeated.

TESTIMONY OF ELIZABETH WARREN BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

My name is Elizabeth Warren. I teach bankruptcy law. As some of you know, I have followed this issue with interest for some time.

The overarching problem with this bill is that time and the American economy have passed it by. It was drafted—never mind by whom—eight years ago. Even if it had been a flawless piece of legislation then, and it surely was not, the events of the past eight years have dramatically changed the economic and social environment in which you must consider this bill.

In the eight years since this bill was introduced, new cases have burst on the scene. The names are burned in our collective memories: Enron, Worldcom, Adelphia, United Airlines, USAirways and TWA, LTV Steel, K-Mart, Polaroid, Global Crossing.

While the actual number of consumer bankruptcy cases has declined slightly in the past year, many of the largest corporate bankruptcy cases in American history have occurred since the Senate last reevaluated the bankruptcy laws, and some of those cases are already legend for the corporate scandals that accompanied them. Because it was written eight years ago, this bill has nothing to deal with these abuses, with these dangers, with the needs that these cases have made so painfully clear.

Problems not even on the horizon when this bill was written are now front and center.

Companies in Chapter 11 that cancel pension plans and health benefits, leaving thousands of families economically devastated.

Companies that continue to pay executives and insiders tens of millions of dollars, while they demand concessions from their creditors.

Military families targeted for payday loans at 400% interest, insurance scams, and other forms of financial chicanery.

Scandals have rocked the so-called nonprofit credit counseling industry, exposing how tens of thousands of consumers struggling desperately to pay their bills and not file for bankruptcy were cheated.

Sub-prime mortgage companies, financed by some of the best names in American banking, have unlawfully taken millions of dollars from homeowners, then fled to the bankruptcy courts to protect their insiders and bank lenders.

In the eight years since this bill was introduced, there has been a revolution in the data available to us. Unlike eight years ago, we need not have a theoretical debate about who turns to the bankruptcy system. We now know:

One million men and women each year are turning to bankruptcy in the aftermath of a serious medical problem—and three-quarters of them have health Insurance.

A family with children is nearly three times more likely to file for bankruptcy than an individual or couple with no children.

More children now live through their parents' bankruptcy than through their parents' divorce.

Unlike eight years ago, we need not have a theoretical debate about the homestead exemption because we have had example after example of abuse tied directly to the failure of American companies. Millions of jobs have been lost but not the Florida and Texas fortunes of their corporate executives. Others are welcome to use the unlimited homestead exemption as well.

After he lost a $33 million lawsuit in California, O.J. Simpson moved to Florida, explaining to a reporter that the unlimited exemption would permit him to protect a multimillion-dollar house.

Abe Grossman ran up $233 million in debts in Massachusetts and Rhode Island, then fled to Florida to purchase a 64,000 square foot home valued at $55 million.

Some physicians are reportedly dropping their malpractice insurance and putting all their assets in their homes—where they can't be touched by bankruptcy.

Under S. 256, they would still be welcome to file for bankruptcy and to keep their fortunes and properties intact while leaving their creditors with nothing.

Unlike eight years ago, we need not have a theoretical debate about the effects of the proposed legislation on small business.

It takes time to negotiate a reorganization, even for a small company. The timelines in S. 256 would have denied reorganization to more than a third of the small businesses that eventually saved themselves—destroying value for the companies, their creditors, their employees and their communities.

This bill would be the first in American history to discriminate affirmatively against small businesses. For the first time ever, Congress would pass a law that says companies like Enron and Worldcom don't have to file extra forms, Enron and Worldcom don't have to schedule meetings with the Office of the United States Trustee, and Enron and Worldcom don't have to meet fixed deadlines that a judge cannot waive for any reason—but every troubled small business in the Chapter 11 system would have to file those papers, undergo that supervision and meet those deadlines or be liquidated. No exceptions allowed for small companies.

Unlike eight years ago, we need not have a theoretical debate about the economic impact of bankruptcies on credit card company profits.

In the eight years since this bill was introduced, credit has not been curtailed. Minors—under 18 years of age—with no incomes and no credit history are now described as an ''emerging market'' for the credit industry. Credit card solicitations have doubled to 5 billion a year. Bankruptcy filings have increased 17 percent, while credit card profits have increased 163 percent, from $11.5 billion to $30.2 billion.

Some courts have demanded that credit card companies disclose how much of their claims are the amounts actually borrowed and how much are fees, penalties and interest. Companies have admitted that for every

dollar they claim the customer borrowed, they are demanding two more dollars in fees and interest.

With increased fees and universal default clauses that drive up interest rates even for customers paying on time, a growing number of people have no option but to declare bankruptcy. Cases continue to surface like In re McCarthy, in which a woman borrowed $2200, paid back $2010 in the two years before bankruptcy, and was told by her credit card company that she still owed $2600 more. Ms. McCarthy had two choices: She could either declare bankruptcy or she could pay $2000 every year for life—and die owing as much as she owes today.

The means test in this bill, Section 102, has been one of its most controversial provisions. Proponents like to say that the means test will put pressure only on the families that can afford to repay. And yet, the bill has 217 sections that run for 239 pages. The means test aside, virtually every consumer provision aims in the same direction. The bill increases the cost of bankruptcy protection for every family, regardless of income or the cause of financial crisis, and it decreases the protection of bankruptcy for every family, regardless of income or the cause of financial crisis.

There are provisions that will make Chapter 13 impossible for many of the debtors who would file today, provisions that make it easier than ever to abuse the unlimited homestead provisions in some states and yet at the same time hurt people with more modest homesteads in those same states. Other provisions will compromise the privacy of millions of families by putting their entire tax returns in the court files and potentially on the Internet, making them easy prey for identity thieves. Women trying to collect alimony or child support will more often be forced to compete with credit card companies that can have more of their debts declared non-dischargeable. All these provisions apply whether a person earns $20,000 a year or $200,000 a year.

But the means test as written has another, more basic problem: It treats all families alike. It assumes that everyone is in bankruptcy for the same reason—too much unnecessary spending. A family driven to bankruptcy by the increased costs of caring for an elderly parent with Alzheimer's disease is treated the same as someone who maxed out his credit cards at a casino. A person who had a heart attack is treated the same as someone who had a spending spree at the shopping mall. A mother who works two jobs and who cannot manage the prescription drugs needed for a child with diabetes is treated the same as someone who charged a bunch of credit cards with only a vague intent to repay. A person cheated by a subprime mortgage lender and lied to by a credit counseling agency is treated the same as a person who gamed the system in every possible way.

If Congress is determined to sort the good debtors from the bad, then it is both morally and economically imperative that they distinguish those who have worked hard and played by the rules from those who have shirked their responsibilities. If Congress is determined to sort the good from the bad, then begin by sorting those who have been laid low by medical debts, those who lost their jobs, those whose breadwinners have been called to active duty and sent to Iraq, those who are caring for elderly parents and sick children from those few who overspend on frivolous purchases.

This Congress wants to set a new moral tone. Do it with the bankruptcy bill. Don't press ''one-size-fits-all-and-they-are-all-bad'' judgments on the very good and the very bad. Spend the time to make the hard decisions. Leave discretion with the bankruptcy judges to evaluate these families. Based on the Harvard medical study and other research, I think you will find that most debtors are filing for bankruptcy not because they had too many Rolex watches and Gameboys, but because they had no choice.

You have a choice. It's a choice that you're making for the American people. Adopt new bankruptcy legislation. Establish a means test that targets abuse. But do not enact a proposal written to address myth and mirage more than reality. Do not enact a proposal written for 1997 when the problems of the American corporate economy in 1997 deserve far more attention and the problems of the American middle class can no longer be ignored.

Overwhelmingly, American families file for bankruptcy because they have been driven there—largely by medical and economic catastrophe—not because they want to go there. Your legislation should respect that harsh reality and the families who face it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM). The gentlewoman is out of order in defying the gavel.

The gentlewoman's time has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is about great pleasure that I rise today to express my strong support for the Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says, Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime. And that is exactly what this bill before us does today.

There are many reasons to support this bankruptcy reform bill, but I want to focus on one that is important to many of my colleagues, to me, and to the American people.

We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand in hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We pass many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers. Unfortunately for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge.

Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy. The Bankruptcy Abuse Prevention and Consumer Protection Act also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Last week we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body, and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remain at a historic high, over 1.6 million bankruptcy cases were filed in Federal courts in 2004. With this in mind, I urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ZOE LOFGREN), a distinguished member of the committee.

Ms. ZOE LOFGREN of California. Mr. Speaker, this bill hurts Americans. One group who will be especially hurt are family forced into bankruptcy because of a medical crisis.

A recent study conducted by professors at Harvard Medical and Law School showed that about half of all personal bankruptcies can be attributed to medical costs.

Among those who cited illnesses as a cause of bankruptcy, the average unreimbursed medical costs totaled nearly $12,000 even though more than three-quarters had health insurance.

How does the bill hurt the families? Under the bill for the first time there will be a presumption that many of these families abuse the bankruptcy system. Under current law, people facing a medical bankruptcy can seek several forms of relief. Chapter 7 is by far the most common. Under 7 debtors are required to forfeit all of their property other than the exempt assets in exchange for having their debts extinguished.

Current law already gives bankruptcy courts discretion to deny chapter 7 relieve where the filing is found to be a substantial abuse. But unlike this bill, current law provides a presumption in favor of granting relief to the debtor.

The other option is chapter 13 where a debtor is required to continue paying creditors. This makes it more difficult for debtors to get back on their feet.

This bill will hurt families facing medical bankruptcy because it will force many of them into chapter 13. That is because it presumes that these families are abusing the bankruptcy system if they fail the means test. The means tests starts with a family's income and then subtracts monthly expenses permitted by IRS guidelines. But instead of using a debtor's actual projected income, the means tests uses the debtor's average income over the prior 6 months. Thus, if a family's bankruptcy was triggered by a loss of income resulting from a serious illness, the means test would still attribute the lost income for the purpose of determining whether the family is abusing the bankruptcy system.

Further, the means test uses the median income for a State. My constituents in Santa Clara County live in a

high-cost area. Almost nobody will be able to discharge their debts in bankruptcy from Santa Clara County because of that high cost, no matter how meritorious for their claim for relief.

Similarly, instead of using the debtor's actual expenses, the inflexible guidelines developed by the IRS is used. As a result, more families facing medical bankruptcy will be presumed to be abusing the system, will be forced into chapter 13 and will never be able to stand on their feet again. That is not right.

The Harvard study found that these struggling families did everything they could to pay their medical bills to avoid bankruptcy. One in five skipped meals. One-third had their electricity cut off. Almost half lost their phone service. One in five was forced to move.

Incredibly, they also cut back on needed medications to try to avoid bankruptcy. In fact, half went without needed prescriptions. And a full 60 percent went without a needed doctor appointment.

Please join me in opposing this unfair bill.

[From Market Watch]

ILLNESS AND INJURY AS CONTRIBUTORS TO BANKRUPTCY

(By David U. Himmelstein, Elizabeth Warren, Deborah Thorne, and Steffie Woolhandler)

ABSTRACT: In 2001, 1.458 million American families filed for bankruptcy. To investigate medical contributors to bankruptcy, we surveyed 1,771 personal bankruptcy filers in five federal courts and subsequently completed in-depth interviews with 931 of them. About half cited medical causes, which indicates that 1.9–2.2 million Americans (filers plus dependents) experienced medical bankruptcy. Among those whose illnesses led to bankruptcy, out-of-pocket costs averaged $11,854 since the start of illness; 75.7 percent had insurance at the onset of illness. Medical debtors were 42 percent more likely than other debtors to experience lapses in coverage. Even middle-class insured families often fall prey to financial catastrophe when sick.

''If the debtor be insolvent to serve creditors, let his body be cut in pieces on the third market day. It may be cut into more or fewer pieces with impunity. Or, if his creditors consent to it, let him be sold to foreigners beyond the Tiber.''

—Twelve Tables, Table III, 6 (ca. 450 B.C.)

Our bankruptcy system works differently from that of ancient Rome; creditors carve up the debtor's assets, not the debtor. Even so, bankruptcy leaves painful problems in its wake. It remains on credit reports for a decade, making everything from car insurance to house payments more expensive. Debtors' names are often published in the newspaper, and the fact of their bankruptcy may show up whenever someone tries to find them via the Internet. Potential employers who run routine credit checks (a common screening practice) will discover the bankruptcy, which can lead to embarrassment or, worse, the lost chance for a much-needed job.

Personal bankruptcy is common. Nearly 1.5 million couples or individuals filed bankruptcy petitions in 2001, a 360 percent increase since 1980. Fragmentary data from the legal literature suggest that illness and medical bills contribute to bankruptcy. Most previous studies of medical bankruptcy, however, have relied on court records—where medical debts may be subsumed under credit card or mortgage debt—or on responses to a single survey question. None has collected detailed information on medical expenses, diagnoses, access to care, work loss, or insurance coverage. Research has been impeded both by the absence of a national repository for bankruptcy filings and by debtors' reticence to discuss their bankruptcy, in population-based surveys, only half of those who have undergone bankruptcy admit to it.

The health policy literature is virtually silent on bankruptcy, although a few studies have looked at impoverishment attributable to illness. In his 1972 book, Sen. Edward Kennedy (D–MA) gave an impressionistic account of ''sickness and bankruptcy.'' The likelihood of incurring high out-of-pocket costs was incorporated into older estimates of the number of underinsured Americans: twenty-nine million in 1987. About 16 percent of families now spend more than one-twentieth of their income on health care. Among terminally ill patients (most of them insured), 39 percent reported that health care costs caused moderate or severe financial problems. Medical debt is common among the poor, even those with insurance, and interferes with access to care. At least 8 percent, and perhaps as many as 21 percent of American families are contacted by collection agencies about medical bills annually.

Our study provides the first extensive data on the medical concomitants of bankruptcy, based on a survey of debtors in bankruptcy courts. We address the following questions: (1) Who files for bankruptcy? (2) How frequently do illness and medical bills contribute to bankruptcy? (3) When medical bills contribute, how large are they and for what services? (4) Does inadequate health insurance play a role in bankruptcy? (5) Does bankruptcy compromise access to care?

A BRIEF PRIMER ON BANKRUPTCY

''Bankrupt'' is not synonymous with ''broke.'' ''Bankrupt'' means filing a petition in a federal court asking for protection from creditors via the bankruptcy laws. A single petition may cover an individual or married couple. The instant a debtor files for bankruptcy, the court assumes legal control of the debtor's assets and halts all collection efforts.

Shortly after the filing, a court-appointed trustee convenes a meeting to inventory the debtor's assets and debts and to determine which assets are exempt from seizure. States may regulate these exemptions, which often include work tools, clothes, Bibles, and some equity in a home.

About 70 percent of all consumer debtors file under Chapter 7 of the Bankruptcy Code; most others file under Chapter 13. In Chapter 7 the trustee liquidates all nonexempt assets—although 96 percent of debtors have so little unencumbered property that there is nothing left to liquidate. At the conclusion of the bankruptcy, the debtor is freed from many debts. In Chapter 13 the debtor proposes a repayment plan, which extends for up to five years. Chapter 13 debtors may retain their property so long as they stay current with their repayments.

Under both chapters, taxes, student loans, alimony, and child support remain payable in full, and debtors must make payments on all secured loans (such as home mortgages and car loans) or forfeit the collateral.

STUDY DATA AND METHODS

This study is based on a cohort of 1,771 bankruptcy filings in 2001. For each filing, a debtor completed a written questionnaire at the mandatory meeting with the trustee, and we abstracted financial data from public court records. In addition, we conducted follow-up telephone interviews with about half (931) of these debtors.

Sampling strategy. We used cluster sampling to assemble a cohort to households filing for personal bankruptcy in five (of the seventy-seven total) federal judicial districts. We collected 250 questionnaires in each district, representative of the proportion of Chapters 7 and 13 filings in that district. These 1,250 cases constitute our ''core sample.'' For planned studies on housing, we collected identical data from an additional 521 homeowners filing for bankruptcy. We based our analyses on all 1,771 bankruptcies with responses weighted to maintain the representativeness of the sample.

Data collection. With the cooperation of the judges in each district, we contacted the trustees who officiate at meetings with debtors. The trustees agreed to distribute, or to allow a research assistant to distribute, a self-administered questionnaire to debtors appearing at the bankruptcy meeting. Questionnaires (which were available in English and Spanish) included a cover letter explaining the research project and human subjects protections and encouraging debtors to consult their attorneys (who were almost always present) before participating.

The questionnaire asked about demographics, employment, housing, and specific reasons for filing for bankruptcy, it also asked whether the debtor had medical debts exceeding $1,000, had lost two or more weeks of work-related income because of illness, or had health insurance coverage for themselves and all dependents at the time of filing, and whether there had been a gap of one month or more in that coverage during the past two years. In joint filings, we collected demographic information for each spouse.

During the spring and summer of 2001 we collected questionnaires from consecutive debtors in each district until the target number was reached.

Follow-up telephone interviews. The written questionnaire distributed at the time of bankruptcy filing invited debtors to participate in future telephone interviews, for which they would receive $50; 70 percent agreed to such interviews. We ultimately completed follow-up telephone interviews with 931 of the 1,771 debtor families, a response rate of 53 percent. The telephone interviews, conducted between June 2001 and February 2002 using a structured, computer-assisted protocol, explored financial, housing, and medical issues. Many debtors also provided a narrative description of their bankruptcy experience.

Detailed medical questions. Each of the 931 interviewees was asked if any of the following had been a significant cause of their bankruptcy: an illness or injury; the death of a family member; or the addition of a family member through birth, adoption, custody, or fostering. Those who answered yes to this screening question were queried about diagnoses, health insurance during the illness, and medical care use and spending. Interviewers collected information about each household member with medical problems. In total, we collected in-depth medical information on 391 people with health problems in 332 debtor households.

Data analysis. We used data from the self-administered questionnaires (and court records) obtained from all 1,771 filters to analyze demographics, health coverage at the time of filing, and gaps in coverage in the two years before filing.

We also used the questionnaire to estimate how frequently illness and medical bills contributed to bankruptcy. We developed two summary measures of medical bankruptcy. Under the rubric ''Major Medical Bankruptcy'' we included debtors who either (1) cited illness or injury as a specific reason for bankruptcy, or (2) reported uncovered medical bills exceeding $1,000 in the past years,

or (3) lost at least two weeks of work-related income because of illness/injury, or (4) mortgaged a home to pay medical bills. Our more inclusive category, ''Any Medical Bankruptcy,'' included debtors who cited any of the above, or addiction, or uncontrolled gambling, or birth, or the death of a family member.

Data from the 931 follow-up telephone interviews were used to analyze hardships experienced by debtors in the period surrounding their bankruptcy, including problems gaining access to medical care. The in-depth medical interviews regarding 391 people with medical problems are the basis for our analyses of which household members were ill, diagnoses, health insurance at onset of illness, and out-of-pocket spending. Two physicians (Himmelstein and Woolhandler) coded the diagnoses given by debtors into categories for analysis.

SAS and SUDAAN were used for statistical analyses, adjusting for complex sample design. To extrapolate our findings nationally, we assumed that our sample was representative of the 1,457,572 households filing for bankruptcy during 2001. Human subject committees at Harvard Law School and the Cambridge Hospital approved the project.

STUDY FINDINGS

Who files for bankruptcy? Exhibit 1 displays the demographic characteristics of our weighted sample of 1,771 bankruptcy filers. The average debtor was a forty-one-year-old woman with children and at least some college education. Most debtors owned homes; their occupational prestige scores place them predominantly in the middle or working classes.

On average, each bankruptcy involved 1.32 debtors (reflecting some joint filings by married couples) and 1.33 dependents. Extrapolating from our data, the 1.5 million personal bankruptcy filings nationally in 2001 involved 3.9 million people: 1.9 million debtors, 1.3 million children under age eighteen, and 0.7 million other dependents.

Medical causes of bankruptcy. Exhibit 2 shows the proportion of debtors (N = 1,771) citing various medical contributors to their bankruptcy and the estimated number of debtors and dependents nationally affected by each cause. More than one-quarter cited illness or injury as a specific reason for bankruptcy; a similar number reported uncovered medical bills exceeding $1,000. Some debtors cited more than one medical contributor. Nearly half (46.2 percent) (95 percent confidence interval = 43.5, 48.9) of debtors met at least one of our criteria for ''major medical bankruptcy.'' Slightly more than half (54.5 percent) (95 percent CI = 51.8, 57.2) met criteria for ''any medical bankruptcy.''

A lapse in health insurance coverage during the two years before filing was a strong predictor of a medical cause of bankruptcy (Exhibit 3). Nearly four-tenths (38.4 percent) of debtors who had a ''major medical bankruptcy'' had experienced a lapse, compared with 27.1 percent of debtors with no medical cause ($p < .0001$). Surprisingly, medical debtors were no less likely than other debtors to have coverage at the time of filing. (More detailed coverage and cost data for the subsample we interviewed appears below.)

Medical debtors resembled other debtors in most other respects (Exhibit 1). However, the ''major medical bankruptcy'' group was 16 percent ($p < 03$) less likely than other debtors to cite trouble managing money as a cause of their bankruptcy (data not shown).

Privations in the period surrounding bankruptcy. In our follow-up telephone interviews with 931 debtors, they reported substantial problems. During the two years before filing, 40.3 percent had lost telephone service; 19.4 percent had gone without food; 53.6 percent had gone without needed doctor or dentist visits because of the cost, and 43.0 percent had failed to fill a prescription, also because of the cost. Medical debtors experienced more problems in access to care than other debtors did; three-fifths went without a needed doctor or dentist visit, and nearly half failed to fill a prescription.

Medical debt was also associated with mortgage problems. Among the total sample of 1,771 debtors, those with more than $1,000 in medical bills were more likely than others to have taken out a mortgage to pay medical bills (5.0 percent versus 0.8 percent). Fifteen percent of all homeowners who had taken out a second or third mortgage cited medical expenses as a reason. Follow-up phone interviews revealed that among homeowners with high-risk mortgages (interest rates greater than 12 percent, or points plus fees of at least 8 percent), 13.8 percent cited a medical reason for taking out the loan.

Following their bankruptcy filings, about one-third of debtors continued to have problems paying their bills. Medical debtors reported particular problems making mortgage/rent payments and paying for utilities. Although our interviews occurred soon after the bankruptcy filings (seven months, on average), many debtors had already been turned down for jobs (3.1 percent), mortgages (5.8 percent), apartment rentals (4.9 percent), or car loans (9.3 percent) because of the bankruptcy on their credit reports.

Medical diagnoses, spending, and type of coverage. Our interviews yielded detailed data on diagnoses, health insurance coverage, and medical bills for 391 debtors or family members whose medical problems contributed to bankruptcy. In three-quarters of cases, the person experiencing the illness/injury was the debt or spouse of the debtor; in 13.3 percent, a child; and in 8.2 percent, an elderly relative.

Illness begot financial problems both directly (because of medical costs) and through lost income. Three-fifths (59.9 percent) of families bankrupted by medical problems indicated that medical bills (from medical care providers) contributed to bankruptcy; 47.6 percent cited drug costs; 35.3 percent had curtailed employment because of illness, often (52.8 percent) to care for someone else. Many families had problems with both medical bills and income loss.

Families bankrupted by medical problems cited varied, and sometimes multiple, diagnoses. Cardiovascular disorders were reported by 26.6 percent; trauma/orthopedic/back problems by nearly one-third; and cancer, diabetes, pulmonary, or mental disorders and childbirth-related and congenital disorders by about 10 percent each. Half (51.7 percent) of the medical problems involved ongoing chronic illnesses.

Our in-depth interviews with medical debtors confirmed that gaps in coverage were a common problem. Three-fourths (75.7 percent) of these debtors were insured at the onset of the bankrupting illness. Three-fifths (60.1 percent) initially had private coverage, but one-third of them lost coverage during the course of their illness. Of debtors, 5.7 percent had Medicare, 8.4 percent Medicaid, and 1.6 percent veterans/military coverage. Those covered under government programs were less likely than others to have experienced coverage interruptions.

Few medical debtors had elected to go without coverage. Only 2.9 percent of those who were uninsured or suffered a gap in coverage said that they had not thought they needed insurance; 55.9 percent said that premiums were unaffordable, 7.1 percent were unable to obtain coverage because of preexisting medical conditions, and most others cited employment issues, such as job loss or ineligibility for employer-sponsored coverage.

Debtors' out-of-pocket medical costs were often below levels that are commonly labeled catastrophic. In the year prior to bankruptcy, out-of-pocket costs (excluding insurance premiums) averaged $3,686 (95 percent CI = $2,693, $4,679) (Exhibit 5). Presumably, such costs were often ruinous because of concomitant income loss or because the need for costly care persisted over several years. Out-of-pocket costs since the onset of illness/injury averaged $11,854 (95 percent CI = $8,532, $15,175). Those with continuous insurance coverage paid $734 annually in premiums on average over and above the expenditures detailed above. Debtors with private insurance at the onset of their illnesses had even higher out-of-pocket costs than those with no insurance. This paradox is explained by the very high costs—$18,005—incurred by patients who initially had private insurance but lost it. Among families with medical expenses, hospital bills were the biggest medical expense for 42.5 percent prescription medications for 21.0 percent, and doctors' bills for 20.0 percent. Virtually all of those with Medicare coverage, and most patients with psychiatric disorders, said that prescription drugs were their biggest expense.

The human face of bankruptcy. Debtors' narratives painted a picture of families arriving at the bankruptcy courthouse emotionally and financially exhausted, hoping to stop the collection calls, save their homes, and stabilize their economic circumstances. Many of the debtors detailed ongoing problems with access to care. Some expressed fear that their medical care providers would refuse to continue their care, and a few recounted actual experiences of this kind. Several had used credit cards to charge medical bills they had no hope of paying.

The co-occurrence of medical and job problems was a common theme. For instance, one debtor underwent lung surgery and suffered a heart attack. Both hospitalizations were covered by his employer-based insurance, but he was unable to return to his physically demanding job. He found new employment but was denied coverage because of his preexisting conditions, which required costly ongoing care. Similarly, a teacher who suffered a heart attack was unable to return to work for many months, and hence her coverage lapsed. A hospital wrote off her $20,000 debt, but she was nevertheless bankrupted by doctor's bills and the cost of medications.

A second common theme was sounded by parents of premature infants or chronically ill children; many took time off from work or incurred large bills for home care while they were at their jobs.

Finally, many of the insured debtors blamed high copayments and deductibles for their financial ruin. For example, a man insured through his employer (a large national firm) suffered a broken leg and torn knee ligaments, He incurred $13,000 in out-of-pocket costs for copayments, deductibles, and uncovered services—much of it for physical therapy.

DISCUSSION

Bankruptcy is common in the United States, involving nearly four million debtors and dependents in 2001; medical problems contribute to about half of all bankruptcies. Medical debtors, like other bankruptcy filer, were primarily middle class (by education and occupation). The chronically poor are less likely to build up debt, have fewer assets (such as a home) to protect, and have less access to the legal resources needed to navigate a complex financial rehabilitation. The medical debtors we surveyed were demographically typical Americans who got sick. They differed from others filing for bankruptcy in one important respect: They were more likely to have experienced a lapse in

health coverage. Many had coverage at the onset of their illness but lost it. In other cases, even continuous coverage left families with ruinous medical bills.

Study strengths and limitations. Our study's strengths are the use of multiple overlapping data sources; a large sample size; geographic diversity; and in-depth data collection. Although our sample may not be fully representative of all personal bankruptcies, the Chapter 7 filers we studied resemble Chapter 7 filers nationally (the only group for whom demographic data has been complied nationally from court records). Several indicators suggest that response bias did not greatly distort our findings.

As in all surveys, we relied on respondents' truthfulness. Might some debtors blame their predicament on socially acceptable medical problems rather than admitting to irresponsible spending? Several factors suggest that our respondents were candid. First, just prior to answering our questionnaire, debtors had filed extensive information with the court under penalty of perjury—information that was available to use in the court records and that virtually never contradicted the questionnaire data. They were about to be sworn in by a trustee (who often administered our questionnaire) and examined under oath. At few other points in life are full disclosure and honesty so aggressively emphasized.

Second, the details called for in our telephone interview—questions about out-of-pocket medical expenses, who was ill, diagnoses, and so forth—would make a generic claim that ''we had medical problems'' difficult to sustain. Third, one of us (Thorne) interviewed (for other studies) many debtors in their homes. Almost all specifically denied spend-thrift habits, and observation of their homes supported these claims. Most reflected the lifestyle of people under economic constraint, with modest furnishings and few luxuries. Finally, our findings receive indirect corroboration from recent surveys of the general public that have found high levels of medical debt, which often result in calls from collection agencies.

Even when data are reliable, making casual inferences from a cross-sectional study such as ours is perilous. Many debtors described a complex web of problems involving illness, work, and family. Dissecting medical from other causes of bankruptcy is difficult. We cannot presume that eliminating the medical antecedents of bankruptcy would have preventing all of the filings we classified as ''medical bankruptcies.'' Conversely, many people financially ruined by illness are undoubtedly too ill, too destitute, or too demoralized to pursue formal bankruptcy. In sum, bankruptcy is an imperfect proxy for financial ruin.

Trends in medical bankruptcy. Although methodological inconsistencies between studies preclude precise quantification of time trends, medical bankruptcies are clearly increasing. In 1981 the best evidence available suggests that about 25,000 families filed for bankruptcy in the aftermath of a serious medical problem (8 percent of the 312,000 bankruptcy filings that year). Our findings suggest that the number of medical bankruptcies had increased twenty-threefold by 2001. Since the number of bankruptcy filings rose 11 percent in the eighteen months after the completion of our data collection, the absolute number of medical bankruptcies almost surely continues to increase.

Policy implications. Our data highlight four deficiencies in the financial safety net for American families confronting illness. First, even brief lapses in insurance coverage may be ruinous and should not be viewed as benign. While forty-five million Americans are uninsured at any point in time, many more experience spells without coverage. We found little evidence that such gaps were voluntary. Only a handful of medical debtors with a gap in coverage had chosen to forgo insurance because they had not perceived a need for it; the overwhelming majority had found coverage unaffordable or effectively unavailable. The privations suffered by many debtors—going without food, telephone service, electricity, and health care—lend credence to claims that coverage was unaffordable and belie the common perception that bankruptcy is an ''easy way out.''

Second, many health insurance policies prove to be too skimpy in the face of serious illness. We doubt that such underinsurance reflects families' preference for risk; few Americans have more than one or two health insurance options. Many insured families are bankrupted by medical expenses well below the ''catastrophic'' thresholds of high-deductible plans that are increasingly popular with employers. Indeed, even the most comprehensive plan available to us through Harvard University leaves faculty at risk for out-of-pocket expenses as large as those reported by our medical debtors.

Third, even good employment-based coverage sometimes fails to protect families, because illness may lead to job loss and the consequent loss of coverage. Lost jobs, of course, also leave families without health coverage when they are at their financially most vulnerable.

Finally, illness often leads to financial catastrophe through loss of income, as well as high medical bills. Hence, disability insurance and paid sick leave are also critical to financial survival of a serious illness.

Only broad reforms can address these problems. Even universal coverage could leave many Americans vulnerable to bankruptcy unless such coverage was much more comprehensive than many current policies. As in Canada and most of western Europe, health insurance should be divorced from employment to avoid coverage disruptions at the time of illness. Insurance policies should incorporate comprehensive stop-loss provisions, closing coverage loopholes that expose insured families to unaffordable out-of-pocket costs. Additionally, improved programs are needed to replace breadwinners' incomes when they are disabled or must care for a loved one. The low rate of medical bankruptcy in Canada suggests that better medical and social insurance could greatly ameliorate this problem in the United States.

In 1591 Pope Gregory XIV fell gravely ill. His doctors prescribed pulverized gold and gems. According to legend, the resulting depletion of the papal treasury is reflected in his unadorned plaster sarcophagus in St. Peter's Basilica. Four centuries later, solidly middle-class Americans still face impoverishment following a serious illness.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, unfortunately what the gentlewoman from California (Ms. ZOE LOFGREN) said is not correct. There is a means test that is contained in this bill, but 11 United States Code, section 1307 which permits the conversion of a chapter 13 case to a chapter 7 case is not amended at all in any respect.

I would just like to read 11 U.S.C. 1307(a): ''A debtor may convert a case under this chapter to a case under chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.''

So if chapter 13 is such a straight jacket, the way out is through the conversion as provided for in section 1307.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support for this long overdue legislation. I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership and his efforts in making this bill a reality. It represent years of work, compromise and what I believe to be necessary reforms.

Our bankruptcy laws have shifted away from what was their original purpose. In 1915 the Supreme Court wrote that our bankruptcy laws were intended to give honest debtors a chance to ''start afresh, free from obligations and responsibilities consequent upon business misfortunes.''

This view was later reaffirmed in the 1934 case, Local Loan Company v. Hunt, in which the court wrote that ''the purpose of the act has been again and again emphasized by the courts in that it gives to the honest but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.''

Over the last several decades, bankruptcy protections have expanded to cover basically anyone and everyone, not just those who truly need it. Statistics reveal that in 2004 approximately 1.5 million individuals sought bankruptcy protection. Increasingly, this protection is being sought for the consumer debt that has skyrocketed out of control as a result of the misuse of credit cards and other credit options. This expansive coverage comes at a price.

Personal bankruptcy filing cost businesses and our economy tens of billions of dollars every year. It is basically a $500 per family annual tax on each and every American family. H.R. 685 the Bankruptcy Abuse and Consumer Protection Act of 2005, the bill that is here before us today, strikes a balance. It requires those who have the means to repay debts to do so while protecting those who truly need the assistance provided by chapter 7, such as those with serious medical conditions, the men and women of our armed services who are on active duty, as well as those disabled veterans who served in years past.

Decisions to seek the protection of bankruptcy should be taken seriously. The consequences of filing are not just personal but impact our economy and society as a whole. As I mentioned, it is $600 per family that we are essentially taxed this year for everybody who is paying their debts from those who are not.

□ 1415

Personal filings cannot continue at the current rate. This bill represents a long overdue, much necessary first step; and I urge my colleagues to support this legislation.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to my friend, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, what the gentleman suggested was, if someone has overwhelming medical bills, hundreds of thousands in medical bills, that they can file under Chapter 7. That is not true. If they have a job and they have $100 a month left over after essential expenses, they are going to have to go under a wage earner plan for the next 5 years. Every dime they have got after food and rent will go to all of their bills. They cannot file under Chapter 7.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH) for a unanimous consent request.

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

Mr. KUCINICH. Mr. Speaker, almost half of the bankruptcies in the United States are connected to an illness in the family, whether people had health insurance or not. Middle-class Americans, who had the misfortune of either experiencing a medical emergency themselves or watching a family member suffer, were then forced to face the daunting task of pulling themselves out of debt. Bankruptcy law has allowed them to start over. It has given hope. Now this new law will put people on their own. Illness or emergency creates medical bills. We are telling the people that they themselves are to blame. At the same time, we are removing protections that would stay an eviction, that would keep a roof over the head of a working family. We allow the credit industry to trick consumers into using subprime cards, with exorbitant interest rate hikes and fees. Then we hand those same consumers over to an unforgiving prison of debt, to be put on a rack of insolvency and squeezed dry by the credit card industry. We are protecting the profits of the credit card industry instead of protecting the economic future of the American people. Americans are left on their own. That's what this Administration's "Ownership Society" is all about—you're on your own—and your ship is sinking.

Mr. CONYERS. Mr. Speaker, I am now pleased to break the line of members of the committee. I yield 1 minute and 15 seconds to a distinguished friend of mine, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, you would not even exempt our brothers and sisters coming back from war, and you want me to believe that this is reasonable legislation?

Rising debt levels in turn reflect a shift in our economy away from a time when families could afford to save and into a time when their wages are stagnant. The costs of their health premiums increased 163 percent since 1988. Their tuitions have increased 170 percent. Their mortgages, their child care. This is not a stable economy.

They are not crooks. They are not evil people. The American Bankruptcy Institute says that 96.3 percent of the people filing Chapter 7 just do not have the money. Now we are not saying forget about all of this, but we are saying let us be reasonable.

Who should we help? Who should be first on the list of congressional priorities? The families who are in financial straits or the credit card companies who made a record $30 billion in profits last year and whose profits have soared almost triple in the last decade?

This legislation does nothing to put caps on interest rates or late fees or the overtime limits and other penalties, even those among reasonable people.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the Bankruptcy Abuse and Consumer Prevention Act.

Mr. Speaker, we have seen a sharp increase in bankruptcies in the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings, a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the cost of consumers filing for bankruptcy do not understand how business works. These costs will be shifted to American families who are paying the price for this debt, some studies reflect $400 per year in every household, by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation passes today it will be the American families who are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses that collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change coupled with congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs are both useful methods of curbing future debt. As chairman of the Subcommittee on Education Reform, which has jurisdiction over K through 12, I feel strongly that educating future spenders can prevent debts incurred as adults.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, commonsense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. CONYERS. Mr. Speaker, before I recognize the gentleman from Massachusetts, I want to go back and yield 10 seconds to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I want to make sure that everybody quite understands that I will no longer support this legislation. I am changing my vote this year to a no vote. This is terrible legislation, and we have only made it worse.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Massachusetts (Mr. MEEHAN), an excellent member of the committee.

Mr. MEEHAN. Mr. Speaker, this bankruptcy bill is but the latest attempt by the Republican Congress to undermine the economic security of the middle class. Health care costs, not spending sprees, are the single largest causes of bankruptcies in America. Health care costs. Medical bankruptcies have gone up by more than 2,000 percent in the last 25 years. Why are we here trying to increase the profits of credit card companies while doing nothing to lower the cost of health care for middle-class American families?

It is disgraceful that this bill is being considered under a closed rule, with just an hour of debate, with no opportunity for amendment.

Supporters of this bill claim to have exempted service members who become disabled on active duty, but to be exempted you have to go into debt while on active duty.

A veteran who returns home from Iraq or Afghanistan and then goes into debt because of the injuries sustained on active duty is still subject to the punitive means test. What a way to treat the men and women in uniform fighting on behalf of the United States. It is an unfair loophole that we should have had the opportunity to close here on the House floor.

Another blatant unfairness is that this bill allows millionaires to shield their assets in estates in Florida and Texas, but no such homestead exemption exists for middle-class families who suffer serious medical expenses. We tried to offer an amendment allowing a limited homestead exemption for families with crushing medical debts. Unfortunately, no amendments were allowed.

It is an outrage that we cannot debate these issues here on the House floor. This bill is simply an attempt to reward credit card companies by removing a last resort available to middle-class families who fall on hard times.

I urge Members to oppose this terrible bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself a minute and a half.

Mr. Speaker, once again the opponents of this legislation are not correct. My friend, the gentleman from Massachusetts, says that someone who

is injured in Iraq and comes home is not going to be protected from medical expenses. The United States Government has stood behind everybody who has a service-connected injury or disability and pays for the medical treatment out of taxpayers' money because that is the right thing to do.

Secondly, he says that this bill continues the millionaires' exemption in the eight States that have unlimited exemption. Wrong. It plugs that exemption.

And if this bill goes down, a corporate crook can build a multimillion dollar mansion on the Intercostal waterway in Florida and be able to shield that asset from bankruptcy. What this bill does is it does plug that unlimited exemption and it plugs it in a way that was negotiated out in a bipartisan manner in the conference committee two Congresses ago with a motion that was made in that conference committee by my senior Senator, HERB KOHL, who is a Democrat.

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

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I did not say the bill did not pay for service members' medical expenses who are injured in Iraq or Afghanistan. I said if they incur debt after they come back from serving this country and are forced to bankruptcy, they get the punitive means test. That is wrong. We should not do it to people serving in Iraq and Afghanistan.

Mr. CONYERS. Mr. Speaker, how much time remains on either side?

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Michigan (Mr. CONYERS) has 9 minutes and 20 seconds. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 8 minutes remaining.

Mr. CONYERS. Mr. Speaker, I am now pleased to yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), who is an able member of the committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in strong opposition to the so-called Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Contrary to its name, this bill does not protect consumers and it certainly does not help honest, hard-working families with financial problems. The only thing that this bill does is distort our bankruptcy laws so that working families are treated more like criminals than people in need of relief.

Our bankruptcy laws must strike a fair and practical balance between debtors and creditors. This means that honest people with financial troubles can make a fresh start by getting creditors off their backs.

But this bill does the exact opposite of that. Instead of helping struggling families in debt, this bill erects harsh legal and monetary roadblocks for people who are trying to file bankruptcy.

The vast majority of people who file for bankruptcy, 9 out of 10, do so because they have either lost their job, suffered a medical emergency, or there has been a divorce or separation in their family. These are not people who are abusing the bankruptcy system.

We are talking about recently divorced, single working mothers trying to support their children who may not be getting their child support. We are talking about young men and women in our Armed Forces returning home after serving their country in Iraq. We are talking about some of the 1.6 million families who have lost their private-sector jobs since 2001 when a Republican administration took over the White House. These are honest, hard-working families who have resorted to bankruptcy to find some relief for their debts and a chance to start their lives anew.

This is a terrible bill. It is harmful to struggling families and goes against the basic policy of our bankruptcy laws, helping families in financial trouble get a fresh start.

I urge every Member of the House to stand by America's working families by voting no for passage of S. 256.

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

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Los Angeles, California (Ms. WATERS), a member of the committee.

Ms. WATERS. Mr. Speaker, the passing of this bill would be a complete detriment to the American people. For many Americans find themselves, usually through no fault of their own, facing bankruptcy. This scenario could happen to almost anyone.

Mr. Speaker, the main reasons Americans file for bankruptcy is not to abuse the system and avoid paying their bills. Americans file for bankruptcy usually due to catastrophic medical expenses, divorce, or the loss of their jobs.

Many important, common-sense amendments on subjects such as alimony, child support, exemptions for medical emergencies, and job loss, underage credit card lending, predatory lending and protection for disabled veterans, just to name a few, were all rejected by the Judiciary Committee.

Mr. Speaker, amendments should have been made to this bill to carve out exemptions for certain basic needs so Americans can still have some equity or resources should they be forced into bankruptcy.

More specifically, one loophole in the bankruptcy bill leaves the victims of domestic violence and their children left with no resources should they file for bankruptcy. This is so unfair. The bill should have been allowed to be modified to secure better protection for domestic abuse victims by granting them relief from summary eviction from their houses.

Please note, this relief would have only been available if a domestic violence debtor is certified, under penalty of perjury, that the debtor was in fact a victim of domestic abuse and that their physical well-being or the physical well-being of the debtor's child would be threatened if this debtor were evicted.

Mr. Speaker, this amendment would have provided a safe harbor for those victims who faced the great threat of more violence and extreme danger if their homes are taken as a result of bankruptcy.

We also tried to do something about this underage credit card lending. It is a travesty. These credit card companies set up on the college campuses. They have vendors from the day these kids walk into college. They send them all of this unsolicited mail, and they telephone them unrelentlessly to get them involved in taking these credit cards.

They do it. They run up the debt. Some of them are now 30, 35 years old, out of college for years, still paying on these credit cards because they allowed their minimum payments that do not even take into account all of the interest on the debt.

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It is outright unreasonable that we did not have an amendment allowed by my friends on the opposite side of the aisle to try and protect families and future young families from this kind of exploitation.

Also, I want to point out that the means test includes disaster assistance and veterans benefits. This is a rip-off.

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

Mr. CONYERS. Mr. Speaker, I yield myself 5 seconds to let the gentlewoman from California know that the credit card companies solicit five billion mailings every year to college kids and others.

Mr. Speaker, may I ask the chairman how many speakers he may have remaining.

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will yield, just me at the present time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the dynamic gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, over the last 18 months the House leadership has passed bills that are windfalls for the pharmaceutical industry, big oil, and they have given massive tax breaks to corporations while the deficit in this country continues to grow by records.

Now lining up for their share and licking their lips is the credit card industry who stands to make billions of dollars at the expense of American consumers.

With the hope of helping to protect veterans from these regulations, I offered an amendment to this bill to simply waive any fee charged for credit counseling for any servicemember returning from a combat area for a period of 2 years. Do my colleagues think that was allowed to come down here on the House floor for a vote? Absolutely not.

Many of these men and women have been away from their families, from their homes, their jobs for long periods of time because of unethical procedures that keep them overseas. Many of these individuals have lost their businesses, they have lost their homes and they have bills and are going to suffer. Our veterans, they will suffer because of this bankruptcy bill.

Mr. Speaker, over the last eighteen months, the House leadership has passed bills that are windfalls to the pharmaceutical industry and big oil and, have given massive tax breaks to corporations, while the deficit continues to break records.

Now lining up for their share and licking their lips is the credit card industry, that stand to make billions of dollars at the expense of the American consumer.

With the hope of helping to protect Veterans from these new regulations, I offered an Amendment to this bill to simply waive any fee charged for credit counseling for any service member returning from a combat area, for a period of two years. Unfortunately, the majority didn't allow any.

Many of these men and women have been away from their families, homes and jobs for long periods of time because of unethical procedures that keep them overseas. This is resulting in severe economic hardships, business closures, homes foreclosures and bills unpaid.

We must not penalize our troops for serving our country. It is appalling that any Veteran would face bankruptcy because of their sacrifice.

Mr. Speaker, I urge my colleagues to vote against this bill to protect American families and maintain a core American value to allow people a fresh start.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

We should all be embarrassed that instead of repealing the biggest loophole in the bankruptcy code, we have had 8 years to study it, the homestead exemption, the bill places only weak obstacles in its path. Instead of protecting women and health care providers from those who would terrorize abortion clinics, we lay out a blueprint for them to avoid their debts. Instead of helping individuals who have lost their job or faced a health care emergency, we deny them the chance for a fresh start.

By passing this measure in this form, the majority is telling the American people, Republicans are telling the American people, it is more important to help credit card companies than innocent spouses and children; that it is more important to protect corporate scam artists than workers losing their pension; that it is more important to protect unscrupulous lenders than disabled veterans.

Mr. Speaker, I yield the remainder of my time to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

(Ms. PELOSI asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and thank him for his distinguished leadership as the ranking member on the Committee on the Judiciary and his important statements on this bankruptcy bill today.

Mr. Speaker, we all agree that every person in our country must be financially responsible, that we take responsibility for our action, for our debts and we do so in a way that is honorable.

In the course of our country's history, our economy, our government has always provided for people to get a fresh start under the bankruptcy law to enable them to go forward to make a contribution to our economy and our society. Recognizing that tradition and recognizing the appreciation that we have for personal responsibility, I regretfully rise in opposition to this bill because this bankruptcy bill seeks to squeeze even more money for credit card companies from the most hardpressed Americans.

It would bind hardworking and honest Americans to credit card companies and other lenders as modern day indentured servants. I think it is our duty to speak up for those who would be hurt by this bill.

This duty is paramount because we have been shut out of the process here, the legislative process to bring any amendments to the floor. That would have been an amendment on identity theft, which this week's news accounts demonstrate there are real problems of identity theft, and an amendment was rejected.

We tried to take a legislative course of action in our previous question, which is a technicality, is a procedure here on the floor; but we were not able to get any Republican support to address the issue of identity theft and how individuals can be protected from identity theft under the bankruptcy bill.

According to the sponsors of this bill, 1.6 million Americans who filed for bankruptcy last year are deadbeats who are avoiding their debts. That is really the essence of what they are saying with this bill. Proponents claim that there is a bankruptcy tax in which honest Americans are footing the bill for abusive users of credit cards.

We should be vigilant for any abuse of any legal process. There is no evidence, however, of widespread bankruptcy abuse. In fact, a recent study indicated that 45 percent of those filing for bankruptcy had skipped a needed doctor's visit, 25 percent had utilities shut off, 20 percent went without food. They are not using this money that they should be paying in for luxuries. They just simply do not have money to survive.

As a distinguished group of law professors wrote: ''Some people do abuse the bankruptcy system, but the overwhelming majority of people in bankruptcy are in financial distress as a result of job loss, medical expense, divorce, or a combination of those causes. This bill attempts to kill a mosquito with a shotgun.''

I have a problem with the bill on several counts as to what is contained in the bill. The bankruptcy bill fails miserably, I believe, on its merits. It employs, for the first time, a stringent and unworkable means test that limits access to chapter 7 and forces individuals into payment plans that will fail.

It frustrates a key goal of the bankruptcy code, to give individuals who suffer economic misfortunes through no fault of their own a fresh start. That is an American tradition.

The bill neglects the real causes of bankruptcies, as I just mentioned, medical concerns, divorce, in some cases death, while rewarding irresponsible corporate behavior.

It lets those who truly abuse and game the bankruptcy system, the wealthy debtors who shield their assets in asset trusts and homestead exemptions, keep their loopholes and get off, in some cases, scot-free.

It is wholly unnecessary. Current law already allows a bankruptcy judge to deny a discharge in chapter 7 to prevent abuses. That is why bankruptcy judges are uniformly opposed to the bill.

I just would like to quote Keith Lundin, a Federal bankruptcy judge in Tennessee and an authority on bankruptcy repayment plans. Judge Lundin says, ''The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay.'' He says, ''The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it.''

They interviewed dozens of bankruptcy judges, whose names have been suggested by proponents and opponents of this legislation, for their standing on this issue, to speak out; and the reasons why these judges are opposed are several reasons.

One is the judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule, and the schedule is very important, after declaring bankruptcy under what is known as chapter 13; but under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It

would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that debtors would fall behind. It just prescribes that they would.

The bankruptcy judges say the result would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors could then force debtors to pay the full amount owed, not the reduced amount, and by moving to repossess their belongings. Many people would have to pay creditors far into the future and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

I will submit this article from the Los Angeles Times for the RECORD at this point.

[From the Los Angeles Times, Mar. 29, 2005]

JUDGES SAY OVERHAUL WOULD WEAKEN BANKRUPTCY SYSTEM.

(By Peter G. Gosselin)

For nearly a decade, proponents of overhauling the nation's bankruptcy laws have described their aim as ensuring that Americans who enter bankruptcy court do not escape bills that they can truly afford to pay.

But only weeks before Congress is likely to approve the long-sought overhaul, bankruptcy judges across the country warn that the measure would undermine the very section of the law under which debtors are now repaying more than $3 billion annually to their creditors.

These judges say the effect of the overhaul would be to discourage most forms of personal bankruptcy, which—for nearly two centuries has served as a safety net for people in economic trouble.

''The folks who brought you 'those who can pay, should pay' are pulling the stuffing out of the very part of the bankruptcy law where debtors do pay,'' said Keith Lundin, a federal bankruptcy judge in the eastern district of Tennessee in Nashville and an authority on bankruptcy repayment plans.

''The advocates aren't trying to fix the bankruptcy law; they're trying to mess it up so much that nobody can use it,'' Lundin charged.

In interviews, a dozen current or former bankruptcy judges, whose names were suggested by proponents as well as opponents of the overhaul legislation, described what they saw as the problems that could result from key provisions of the new measure.

Judges now have broad discretion to determine how much a debtor must pay to creditors and on what schedule after declaring bankruptcy under what is known as Chapter 13. But under the legislation, that discretion would be substantially curtailed.

The new legislation would bar courts from reducing the amount that many debtors would have to repay on their cars and other big-ticket items. It would also extend the length of time people would have to make repayments and impose repayment schedules that critics describe as so onerous that many debtors would fall behind.

The result, the judges said, would be the collapse of more repayment plans, forcing debtors out of bankruptcy court protection. Creditors then could try to force debtors to pay the full amount owed—not the reduced amount a judge had ordered—by moving to repossess their belongings or bringing legal actions. Many people would have to pay creditors far into the future, the critics said, and thus be unable to restart their economic lives, a long-held aim of bankruptcy.

Repayment plans ''are pretty fragile documents to begin with, but they're going to get a lot more fragile under these conditions,'' said Ronald Barliant, a former bankruptcy judge from the northern district of Illinois in Chicago.

''It's going to take away a lot of the incentives'' for people to enter repayment plans, said David W. Houston III, a bankruptcy judge from the northern district of Mississippi in Aberdeen.

Overhaul proponents respond to such criticisms by contending that the current bankruptcy system is rife with fraud and abuse and is stacked against creditors. Many proponents are deeply scornful of bankruptcy judges, who they charge have let the system spin out of control.

''They're part of the . . . problem,'' declared Jeff Tassey, a Washington lobbyist who heads the coalition of credit card companies, banks and others that has spearheaded the overhaul drive.

''They're not real judges, not Article 3 judges,'' Tassey said. He was referring to Article 3 of the U.S. Constitution, under which judges in the regular federal court system are appointed for life. Bankruptcy judges are appointed under Article 1 to 14-year renewable terms.

As matters now stand, financially distressed Americans generally have two options in bankruptcy. They can file a Chapter 7 case, in which they forfeit most of their assets in return for cancellation of most debts and a debt-free ''fresh start.'' Or, they can file a Chapter 13 case, in which they get to keep most of their property but must agree to repay a portion of their debts over a period of time.

Some advocates for changing the system have contended that these provisions should be rewritten to address a kind of moral laxness in bankruptcy practices.

''When you have seen a system that has gone from a few hundred thousand cases to 1.5 million last year—most of that increase during the fat years of the Clinton administration—you must conclude something is not right,'' said Edith H. Jones, a federal appellate court judge in Houston who served on a blue-ribbon panel to review bankruptcy law in the 1990s and is widely believed to be seen as on President Bush's short list for a position on the Supreme Court.

''People have been encouraged to see bankruptcy as an easy way out of uncomfortable situations,'' Jones said.

Overhaul proponents have also said that the new measure is so narrowly cast that it would affect no more than 15 pecent of bankruptcy filers.

The legislation would require courts to check whether people make more than their state's median income and can pass a ''means test,'' which gauges whether they have enough to cover allowable living expenses, pay secured creditors such as mortgage lenders and still have some left over for unsecured creditors such as credit card companies. Those who are above the median and have the means would no longer be allowed to file under Chapter 7 and wipe out most of their debts, but would have to file Chapter 13 cases and agree to a repayment plan.

Nearly all congressional Republicans, together with many Democrats, support the overhaul measure, which the president has warmly endorsed and said he would sign. The Senate passed the measure this month in a 74–25 vote. Approval from the House is expected next month.

However, largely overlooked in the debate has been a series of proposed changes in Chapter 13 that critics say would make it harder for debtors to stick with repayment plans—the opposite effect of what supporters say they want.

Critics, including bankruptcy judges in California, North Carolina, Massachusetts, and Florida say there is nowhere near the fraud in the system that advocates claim.

They cite a study by the nonpartisan American Bankruptcy Institute, which concludes that only about 3 percent of those who wipe out their debts in Chapter 7 could afford to repay a portion in Chapter 13. Lobbyists for the credit card and banking industries estimate that 10 percent or more would be able to pay.

Those opposed to the changes contend that most people who file for bankruptcy are truly distressed finanacially—and say the success that courts have in collecting as much as they do under Chapter 13 shows the system is working.

According to figures from the U.S. Trustee Program, a Justice Department agency, Chapter 13 debtors repaid almost $3.6 billion in 2003, the latest year for which figures are available.

But critics say the courts' success with Chapter 13 is threatened by several little-noticed elements of the proposed legislation:

Under current law, those who file under Chapter 13 must repay car loans only up to the amount the car is worth at the time they enter court, or they risk losing the vehicle. A debtor who bought a $24,000 sport utility vehicle and filed for bankruptcy two years later, for example, might have to pay far less because the vehicle had depreciated.

By reducing what debtors owe auto lenders in this fashion, the law ensures more money for other creditors. And, according to bankruptcy experts, it means that auto lenders are treated on an equal footing with other ''secured'' creditors—they are promised repayment only to the value of the item they could repossess.

Under the new measure, debtors would have to pay the full amount on any vehicle purchased within 2½ years of bankruptcy, or risk losing the vehicle. The change may seem minor to an outsider, but not to Chapter 13 debtors or bankruptcy judges. ''That's going to be a big deal,'' predicted A. Thomas Small, a bankruptcy judge for the eastern district of North Carolina in Raleigh. It would mean that many repayment plans that work now would fail under the new measure, he said.

Under current law, the debtor and his lawyer work out a repayment plan that they think represents the most the debtor can pay and still cover basic living expenses. A bankruptcy judge must eventually approve the plan, which usually has reduced or stretched-out payments to creditors. In the meantime, the debtor immediately begins making payments to a court-appointed trustee.

Under the legislation, many debtors would have to make full payments on such big-ticket items as houses, furniture and appliances. They would have to make those payments directly to the lenders. And at the same time, they would have to start paying the court-appointed trustee for debts to doctors, credit card companies and other unsecured creditors.

Many bankruptcy judges say debtors who come before them often do not have enough income to make both sets of payments.

The result, they warned, would be that many debtors' plans would quickly fail.

Under current bankruptcy law, two guiding principles are that debtors should not be required to repay indefinitely, or they effectively become indentured servants to their creditors, and that they should eventually be given a debt-free ''fresh start'' on their economic lives.

The legislation would require debtors to agree to repayment plans with a five-year minimum repayment schedule, up from the current three-year minimum. It would also

boost the chances that debtors would be required to continue paying some debts even after a plan's successful completion.

Todd Zywicki, a law professor at George Mason University in Virginia, said the shift away from the ''fresh start'' philosophy is justified because another bedrock American value—that people who incur debts should pay them—is being sullied under the current system.

But many bankruptcy judges and independent experts warn that equally compelling values would be lost if the proposed measure becomes law.

Practically, they warn, debtors who would no longer qualify for Chapter 7 and fail to complete Chapter 13 repayment plans would either have to keep paying creditors indefinitely or drop out.

''If you're confronted with a mountain of debt and have no hope of getting out from under it, you're either going to go underground or turn to crime,'' said Kenneth N. Klee, a former Republican congressional staffer who was one of the chief authors of the last major bankruptcy law change in 1978 and now teaches law at UCLA.

More broadly, say judges and others, the ability to start over after running into financial problems should not be discounted.

''Loads of people have filed bankruptcy—Mark Twain, Buster Keaton, Walt Disney,'' said Lundin, the Nashville-based bankruptcy judge. ''Bankruptcy is a very American safety net.

''It's part and parcel of the American dream.''

Mr. Speaker, while this bill fails to improve the bankruptcy system, the bill succeeds in being harsh, punitive and mean-spirited.

The bill is particularly harsh on women who are often the primary care givers for their children or their parents and are the largest single group in bankruptcy; on older Americans who are the fastest growing group in bankruptcy due to medical costs; and on children. Parents seeking child support will compete with credit card companies and other lenders in State courts, but will have little protection and fewer resources than the large credit card companies they are up against.

Finally, the bill does a disservice to those who serve our Nation, especially our National Guard troops and Reservists who are not protected by an amendment passed by the other body.

National Guard and Reservists make up nearly 40 percent of those serving in the Iraqi theater. They often leave behind small businesses and jobs and incur debt, but they do not have the benefits and services offered to active duty Armed Forces.

This bill would not stop abusive creditors who are stalking down military families while their loved ones are serving our Nation bravely and heroically.

I would hope that our Republican colleagues would join us in a bipartisan way to support our motion to recommit that would give some opportunities for the National Guard not to be treated this way under the bankruptcy bill.

As for the bill, instead of addressing real causes of bankruptcy, this bill rewards irresponsible corporate behavior and fattens the already large profits of the credit card industry.

While bankruptcy filings have increased 17 percent in the last 8 years, credit card profits have increased more than 160 percent, from $11 billion to more than $30 billion. There are now 5 billion credit card solicitations a year stuffed into our mail boxes and many targeted at teenagers with no jobs, no income, no visible means of support to pay these credit card bills.

It is an industry with little oversight and loose underwriting that charges enormous fees and unfair interest payments. The legislation does nothing to address these failings. In fact, the other body rejected an amendment to tell customers how much it would cost in additional interest if they make only minimum payments on their credit card bills.

For these and other reasons, Mr. Speaker, I sadly oppose this bill. I say sadly because this is an area where there should not be any major disagreement. If the point is to honor a tradition in our country where people are entitled to a fresh start so they can begin contributing back to our economy and to our society, then we should uphold that; and if people are abusing the system, existing law already covers that.

Instead, we have a situation where it is mean and harsh to those who can least afford to pay back and gives opportunity to the wealthiest, the wealthiest, and corporate abusers of the system.

With that, Mr. Speaker, I am giving my reasons for why I oppose the bill.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, one does not need to get a good grade in Economics 101 to realize that those who pay their bills as agreed end up having to pay for the cost of debts that are ripped off in bankruptcy. The number of bankruptcy filings has exploded. The number of proven instances of people gaming the system and using bankruptcy as a financial planning tool has gone up, and this bill stops those types of abuses.

I would like to quote from page 4 of the committee report from testimony that was given by Professor Todd Zywicki, and he said, ''Like all other business expenses, when creditors are unable to collect debts because of bankruptcy, some of those losses are inevitably passed on to responsible Americans who live up to their financial obligations. Every phone bill, electric bill, mortgage, furniture purchase, medical bill and car loan contains an implicit bankruptcy tax that the rest of us pay to subsidize those who do not pay their bills. Exactly how much of these bankruptcy losses is passed on from lenders to consumer borrowers is unclear, but economics tell us that at least some of it is. We all pay for bankruptcy abuse in higher down payments, higher interest rates and higher costs for goods and services.''

The Credit Union National Association, which is a national organization of nonprofit credit unions that are owned by their members, said that, as of 2002, they lost over $3 billion from bankruptcies since Congress started its consideration of bankruptcy reform legislation in 1998; and CUNA estimates that over 40 percent of all credit union losses in 2004 will be bankruptcy related, and those losses will total approximately $900 million.

Now the credit unions are not the big issuers of credit cards. They are owned by their members, and those members have to pay additional costs of the services of their own credit unions because of the huge write-offs that have been described in this report.

Now if my friends on the other side of the aisle were so concerned about bankruptcy abuse and the fact that this bill does not deal with the problem, they could have spent the time drafting an amendment in the nature of a substitute. They were offered by the Committee on Rules and I requested the Committee on Rules to make such a substitute in order, but, no, all they want to do is criticize, attack and come up with no positive alternatives.

If that is their position, then the bankruptcy tax that everybody realizes is passed on to people who pay their bills as agreed to is on their shoulders, because we are trying to stop the abuse.

I have heard an awful lot about the homestead exemption. If this bill goes down, eight States and the District of Columbia will continue to have an unlimited homestead exemption where corporate crooks can hide their assets from bankruptcy in a homestead and, once they get their discharge, sell that mansion and go off on their merry way. They want to keep that. Our bill closes it.

We have heard an awful lot about asset protection trusts that become the law in a number of States. Page 506 of the bill contains a new section on fraudulent transfers and obligations that says that anybody who creates one of these trusts within 10 years of the date of filing can have that transfer voided if such a transfer was made to a self-settled trust or similar device, such transfer was made by the debtor, the debtor is the beneficiary of the trust or similar device, and the debtor made the transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date such transfer was made, indebted. Our bill closes those asset protection trusts. If the other side votes this bill down, they continue on and the blame for that is on their shoulders.

We have heard an awful lot about medical bills. Well, the people who are complaining about medical bills put a tin ear on to the testimony that has been submitted in this extensive hearing record.

The United States trustees program, independent people who administer the

Bankruptcy Code, collected data and made findings on medical debt. They drew a random sample and, of 5,203 debtors, 54 percent listed no medical debt. Those that did, medical debt accounted for 5.5 percent of the total general unsecured debt; 90.1 percent reported medical debts of less than $5,000; 1 percent of the cases accounted for 36.5 percent of the medical debt; and less than 10 percent of all cases represented 80 percent of all reported medical debt. This is not the big problem that the people on the minority side have said it is. The data from the United States trustees proves this.

Finally, we have heard about debt that has been run up by service people who are on active duty, whether it is the permanent active duty military service or Guard and Reserve members who have been called up to active duty.

In the last Congress, the Congress enacted the Servicemembers Civil Relief Act, Public Law 108–189, which gives protection to people on active duty from collection of these debts by those that they have become indebted to, and this law puts a cap on interest at an annual rate of 6 percent on debts incurred prior to a person's entry into active military duty service.

Mr. Speaker, this is a good bill. It is not a perfect bill. It is a good bill, but it plugs a lot of loopholes that abuse has been generated under, and it does provide protection for medical debts and to our service people.

Let us not listen to the inaccurate statements that have been made by people who have been opposed to bankruptcy reform beginning 8 years ago, long before the military actions in Iraq and Afghanistan. Let us give some protection to the people who pay their bills that they have agreed to from the hidden bankruptcy tax, and the way we do that is by passing this legislation.

Ms. DELAURO. Mr. Speaker, to listen to this majority, we have a crisis in this country—one brought on by spendthrifts defrauding the public via our bankruptcy system. Indeed, to look at the statistics, we are facing a crisis—but it has nothing to do with ordinary Americans acting irresponsibly or even our bankruptcy system.

Last year, more than a million-and-a-half families resorted to declaring bankruptcy—a full half of which occurred not because of any irresponsible behavior but because of unexpected medical expenses brought on by an illness or death in the family. These families—widows and widowers, mothers and fathers, many in the middle-class—are hardly ''gaming the system''—they are doing the best they can under unbelievable circumstances that have left them with no choice but to resort to the only recourse they have: filing bankruptcy, wiping their debt and trying their best to start anew.

If there is any ''crisis,'' it is the skyrocketing cost of health care, which has left more than 14 million Americans spending more than a quarter of their every paycheck on medical costs—that Mr. Speaker, is what I call a crisis. A moral crisis.

We can all agree that individuals should be accountable for living beyond their means, but if anyone is ''gaming'' our bankruptcy system, it is the credit card companies, who have long been advocating for this bill at the same time they prey on unsuspecting customers. And as with previous incarnations of this legislation, there is virtually nothing in the bill that would require creditors to curb their outrageous predatory lending practices that mislead even the most educated consumers into debt.

This bill is especially bad for women, who are the single largest group currently in bankruptcy. By making it harder for them to file for bankruptcy, we will make it more difficult for them to maintain essential items such as the car that gets them to and from their job. Women who are owed child support will be forced to compete with credit card companies and other lenders for dollars to spend feeding and clothing their children. The bill also allows perpetrators of violence against women at health centers to escape liability for their actions through the bankruptcy courts.

Mr. Speaker, this bill is yet another product of an Administration and majority that taxes work and rewards wealth. It appeals to the worst in all of us, painting honest middle-class families who are working hard and taking personal responsibility for their actions as liars, cheaters and spendthrifts. At the same time it lets off the hook those who do act irresponsibly by preserving loopholes which allow wealthy bankruptcy filers to hide their true wealth in mansions and trust funds. I can hardly imagine a more unfair piece of legislation less concerned with promoting the common good, and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as I stated with respect to the consideration of the rule, today is a sad day for America, its elderly, its veterans, its bereaved, and its aspirants for a second chance.

This 512-page legislation before the Committee of the Whole simply falls far short of its purported goal of ensuring that every debtor repay as much of her debt as she can reasonably afford. Instead, this bill appeals to special interest groups—mainly credit card companies. The bill's sponsor has said that bankruptcy has become a system ''where deadbeats can get out of paying their debt scott-free, while honest Americans who play by the rules have to foot the bill.'' Given the economic gap as evidenced by the predominance of African American and Hispanic bankruptcy filers, it is clear that these minorities are viewed as the ''deadbeats'' of society. Given the harmful provisions that are contained within the legislation, it is clear that the Republican Majority wishes to perpetuate this condition.

According to the Democratic Platform: ''The heart of the American promise has always been the middle class, the greatest engine of economic growth the world has ever known. When the middle class grows in size and security, our country gets stronger. And when more American families save and invest in their children's future, America grows stronger still . . . Today, the average American family is earning $1,500 less than in 2000. At the same time, health care costs are up by nearly one-half, college tuition has increased by more than one-third, gas and oil prices have gone through the roof, and housing costs have soared. Life literally costs more than ever before—and our families have less money to pay for it. Three million more Americans have fallen into poverty since 2000''.

The bankruptcy bill, as it stands, has the potential to crush the dreams and futures of the vast majority of Americans. It will shut the door to the one avenue that is available to those who are eventually overwhelmed by debt.

The proposed bankruptcy bill will lead to a new feudal system. Let me share a few facts with you. Do you know that currently, more that 1 of every 100 adults in America files bankruptcy each year? Families with children are twice as likely to file. Research shows that approximately 50 percent of all families are forced to file bankruptcy due to medical expenses; and other 40 percent of families file bankruptcy due to divorce, job loss or death in the family.

Hispanic homeowners are nearly three times more likely than White homeowners to file, and African American homeowners are nearly six times more likely than White homeowners. African Americans are also twice as likely to lose their homes due to foreclosures, often falling victim to the unscrupulous practices of predatory lenders. Furthermore, African Americans consistently have higher levels of debt. In a study of African American families, the typical family had debt of 30 percent of its assets, while the debt of the typical White family was 11 percent of its assets.

The process by which this bankruptcy bill has made its way to the Floor of the House frustrates both the notion of democracy and of representative government.

I offered amendments to the bill that included: (1) closing a new loophole that threatens to undermine the comprehensive scheme to compensate victims of nuclear accidents, which Congress enacted long ago in the Price-Anderson Act (PAA); (2) increasing the amount of tuition expenses allowed under the Chapter 7 means test; and (3) precluding the discharge of debt arising out of suits against sex offenses; (4) striking the means test; and (5) supporting an amendment by my colleague Mr. SCHIFF to offer relief to those who are victims of identity theft.

Chairman MEL WATT offered substantive amendments including one that would protect consumers from predatory lending tactics, and another that would seek to protect the credit of college students. Similarly, Representative BOBBY SCOTT offered amendments that included proposals to allow debt to be discharged when bankruptcy is caused by unforeseen medical expenses or by the death of a spouse.

However, the Republican Majority did not accept the amendments, and therefore ignored the issues advocated by my constituents and those of my seventeen Democratic colleagues.

The Republican leadership of the Judiciary Committee passed this measure without consideration of a single amendment that was offered by my Democratic colleagues and me. They effectively shut Democrats out of the markup process and thereby ignored the voices of the people's representatives on this very serious policy matter. When the bill was considered in the Senate, the Majority rejected over 25 Democratic amendments, including one that would have helped debtors to keep their homes if they have been driven into bankruptcy by medical expenses. Clearly, the Majority has priorities that do not protect Americans who are victims of circumstances that have nothing to do with creditworthiness.

Of the amendments that my Democratic colleagues and I plan to offer (for our upcoming consideration) before the House is one that would remove the Chapter 7 'means test'. This would sift out debtors who can afford to repay at least a portion of their debts from those who cannot. Debtors who have income above a ''state median'' would have to plead before a bankruptcy judge.

The egregious provisions of this bankruptcy bill and its name are not unlike many recent bills that have sifted through committee and onto the House Floor. Banks, credit card companies, and retailers have accounted for more than $24.8 million of campaign and partisan contributions since 1999. Commercial banks have given some $76.2 million, according to a study of campaign finance and lobbying disclosure reports and the Center for Responsive Politics. The banking industry has spent $22 million on federal lobbying in the past five years. In fact, according to the New York Times, ''The main lobbying forces for the bill—a coalition that included Visa, MasterCard, the American Bankers Association, MBNA America, Capital One, Citicorp, the Ford Motor Credit Company and the General Motors Acceptance Corporation—spent more than $40 million in political fund-raising efforts and many millions more on lobbying efforts since 1989.''

Clearly, the Republican Majority has shut Democrats out of the process in order to appease these special interest groups—to the detriment of middle-class and elderly Americans.

As an African American, I am troubled by the fact that both African American and Hispanic families, both of whom are over-represented in bankruptcy, would suffer disproportionately if this bill becomes law.

Proponents of this bankruptcy bill suggest that it will put pressure only on the families that have the ability to repay. In fact, the weight of the evidence demonstrates that this legislation will increase the cost of bankruptcy for every family, and decrease the protection of bankruptcy for every family, regardless of income or the cause of financial crisis. The bill contains provisions that will force many honest debtors unnecessarily out of Chapter 7, make Chapter 13 impossible for many of the debtors who file today, protect significant loopholes for wealthy and well-advised debtors, as well as raise the cost of the system for all parties. It will turn the government into a private collection agency for large creditors, and force women trying to collect child support or alimony to compete with credit card companies that will have more of their debts declared non-dischargeable.

The ability to file for bankruptcy relief and to receive a fresh start is a source of hope for a number of American families that suffer the burden of financial problems. What this Administration proposes with this bankruptcy reform bill is an attack upon minorities. It will make it virtually impossible for many families to extricate themselves from a web of high interest debt—and kill the dream of these families to become homeowners.

Mr. Speaker, I reject this legislation not only because it is flawed in and of itself but also because the process by which it is being considered is severely flawed. Americans deserve and have a right to a better process.

Mr. BLUMENAUER. Mr. Speaker, for as long as I've been in Congress I have supported bankruptcy reform on two simple principles; I believe people should pay their debts, if they are able, and that we should end abuses in the system, whether by people who deliberately run up their bills or by businesses who exploit the gullible and the unfortunate.

My first vote in favor of bankruptcy reform was cast with reservations because some of the provisions of the bill seemed unduly harsh, but I had hoped that the legislative process would ultimately improve the product. Unfortunately, for 8 years we have been unable to see the bill move through the legislative process and improve; it appears as though the bill, if anything, is actually less adequate due to increasing predatory lending by credit card companies and skyrocketing medical costs.

One of my deep concerns has been credit card mills, which send out millions of credit cards to people who are not creditworthy. In 2001 there were 5 billion solicitations by credit card companies. Meanwhile, skyrocketing fees have been coupled with reduced minimum payments. Bait-and-switch techniques have been employed that change the terms and raise the interest rates of cardholders who have never missed a payment.

While S. 256 contains overly harsh punishments for middle class Americans that have been preyed upon by the credit card industry, it preserves loopholes for the very rich. S. 256 maintains a homestead exemption that allows people with lots of money to shield their assets by purchasing multimillion dollar homes in certain states. O.J. Simpson was able to shield many of his assets by doing this in Florida. There are even sophisticated trust arrangements that enable people with substantial sums of money to be protected from the provisions of this bankruptcy bill.

There are some simple, common sense changes that could be made to this bill that would make it more fair to all parties involved. The Senate, however, was unwilling to compromise and approve any of these provisions and the House leadership has prevented any of these proposals from even being debated on the floor. Perhaps the most glaring example of the majority's unwillingness to compromise is the rejection of an amendment that would protect soldiers injured in Iraq and Afghanistan from the unfair ''means test'' within this bill.

I have had meetings over the years with individuals who represent all sides of this issue: the bankruptcy trustees, judges, and lawyers who represent the debtors, and the people who extend credit to businesses large and small and to individuals rich and poor. As a result of these meetings, it is clear that the loopholes do remain and that the abuses of lending practices are not being reigned in. The bill provides a mandate for unnecessary and burdensome paperwork and the most extreme requirements, including personal certification of the facts by the attorneys assisting the debtor that are not found anyplace else under any other legal provisions. This is going to shut down programs like the legal clinic at Lewis and Clark law school in Portland and will make it harder for legitimate creditors to be able to get their money back in a timely fashion.

The sad fact is that most bankruptcies are due to large medical bills, family breakup, and job loss. This legislation is going to put an unnecessary burden on the vast majority of unfortunate people and still allow too many of the unscrupulous to avoid their responsibilities. It does not have to be this way. I continue to hope that the political process will respond to these problems with sympathy and concern for the unfortunate. Until that point, I cannot support S. 256 in good conscience.

Mr. KIRK. Mr. Speaker, I am proud to vote in favor of S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This important bill brings needed reforms to our nation's bankruptcy system. The legislation reduces the unfair disparity of treatment in the bankruptcy system by establishing more uniform and predictable standards.

I am particularly pleased to note the compromise reached on healthcare and employee benefits. This legislation takes great strides to protect patients' rights, and it encourages debtors and trustees to consider patients' interests when administering healthcare bankruptcy cases. Patients are given a voice through the appointment of an ombudsman, who advocates for the confidentiality of patients' records and ensures patients are transferred to appropriate facilities. These are critical provisions that protect the rights of those with failing health.

I would like to commend a constituent from my district for his contributions to this legislation, Keith J. Shapiro, Esq., of Northbrook, Illinois, and his colleague Nancy A. Peterman, Esq. Mr. Shapiro testified in support of these patient health provisions before the U.S. Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts on June 1, 1998. The passing of this legislation marks the culmination of Mr. Shapiro and Ms. Peterman's tireless efforts to protect patients' interests in bankruptcy cases. On behalf of my colleagues in Congress, I offer my sincere gratitude for their dedication to fair bankruptcy policy.

Mr. HOLT. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act.'' 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. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt, which now stands at $2 trillion.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past few years. In 2001, 1,398,864 people filed for bankruptcy in the United States. According to the Center for American Progress, in 2003 there were a record number of 5.5 personal bankruptcy filings for every 1,000 people living in the United States. In 2003, my own state of New Jersey ranked slightly below the national average at 4.8 filings per every 1,000 residents. This past year, the number of personal bankruptcies had risen to 1,584,170, an increase of over 13 percent. In my own state of New Jersey, citizens have seen a similar increase in bankruptcy filing over the past three years. With those facts in mind, I strongly support the principle of increased personal responsibility of debt.

While there are many problems with S. 256, I'll name just a few of the more egregious provisions to which I strongly object. While the bill purports to elevate the priority of child support payments, in reality credit card companies would receive repayment of debt at the same rate as child support obligations. Children and families will now compete with credit card companies for payment. The bill's homestead-exemption cap does little to address the problem of wealthy debtors shielding their assets from creditors by purchasing million-dollar homes. Sophisticated, wealthy debtors can easily plan ahead and evade the cap. The provision in the bill dealing with ''asset protection trusts'' also does not adequately address the problem of wealthy individuals stashing millions away in trusts that are protected in bankruptcy proceedings. The bill puts the onus on creditors and the court to prove that the debtor was actively trying to avoid creditors by transferring money into the trust. The bill does nothing to protect people who have medical liabilities.

The bill also imposes artificial deadlines and cumbersome new paperwork requirements on small businesses trying to reorganize, and it unnecessarily limits the discretion of bankruptcy judges in crafting the best possible result for small-business debtors and creditors. The rigid and unrealistic requirements will force many viable small businesses to permanently close their doors.

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.

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. MORAN of Virginia. Mr. Speaker, the ''Bankruptcy Abuse Prevention and Consumer Act'' is long overdue and with House passage later today, it stands a very real prospect of becoming law. It's been an extremely long road to reform.

I originally supported bankruptcy reform in 1998 with former Representative George Gekas. Ironically, the legislation was drawn from the recommendations of the bipartisan National Bankruptcy Review Commission that was established through legislation passed in 1994 by a Democratic-controlled Congress. It enjoyed the same level of bipartisan support as when it passed the Senate last month.

The main component of the commission's recommendations and the legislation we have here today is to establish a means-based test to determine who should work with creditors on a plan to repay their debts and those who cannot afford to do so. Sometimes a market-based capitalist economy can be unforgiving, but Americans are fair and decent people. We want a system that allows a fresh start to those in financial trouble, but also one that promotes personal responsibility and is not susceptible to fraud and abuse.

The means test in this bill carves out a series of exemptions to steer those who can afford to repay at least part of their debt toward a Chapter 13 repayment plan. This test takes into account exemptions for living expenses, health and disability insurance, expenses to care for an elderly or disabled family member, secured debts, and home energy costs among others. It also recognizes situations where individuals face overwhelming medical costs or other debilitating situations. Under the bill, if an individual can demonstrate ''special circumstances'' that create an overwhelming financial burden, those individuals would not be required to file for Chapter 13. As a final safeguard, those people earning less than their state's median income would automatically be ineligible for Chapter 13.

It is estimated that only a small minority of those already filing for bankruptcy would be affected, perhaps as little as 7 percent. Contrary to some reports, families and individuals facing difficult economic circumstances, people who may have lost their job or family breadwinner or have been devastated by a severe medical condition, will be given a chance to clear their debts and receive a fresh start under this bankruptcy reform legislation.

Back in 1998, I encouraged supporters of the bill to improve its consumer protection provisions. They responded by making child support a priority in a repayment plan, requiring credit counseling prior to filing for bankruptcy, and limiting abuses caused by a few unscrupulous individuals who hide their wealth behind a state's homestead provisions.

At the onset of the 107th Session, I sought and won the House's approval of my pro-consumer amendments that remain a part of today' s bill. These provisions:

Require credit card companies to include a disclosure statement highlighting the number of months necessary to repay a balance if the card holder were to pay only the minimum amount due;

Require credit card companies to inform cardholders on when their low introductory rates expire and new higher rates take effect; and

Prevent deceptive and fraudulent advertising practices by debt relief agencies by making certain that creditors are informed of their rights as debtors.

Could these provisions be perfected? I suspect so. There were several other consumer protections we were unsuccessful in getting included. But perfection should not be an enemy of the good.

Increasingly, bankruptcy has become a tool of first impulse rather than a last option after all other avenues have been exhausted. Last year, 1.6 million consumers filed for bankruptcy, a figure just short of the number of filings in 2003, which represented the most in our nation's history. How is it that during periods of sustained economic growth and prosperity, such as during the Clinton presidency, when all incomes rose, bankruptcies also continued to climb?

S. 256 has been criticized for advancing the interests of the credit card industry on the backs of the poor and the middle class, many of whom are in debt because of circumstances beyond their control. I am sympathetic to this argument, but the flaw is not with this legislation. Those deserving of a fresh start will still be able to do so under this legislation.

The real flaw is with an agenda that the majority continues to advance.

Most families in dire financial straits and filing for bankruptcy will be able to discharge their debts under this legislation. But why are they facing bankruptcy?

One reason is that 41 million Americans are uninsured because the majority party refuses to address this growing crisis.

Another is because 7.3 million Americans live on the minimum wage, more than one-third of whom rely on the $5.15 cents per hour to support their family. They last saw a minimum wage increase in 1997.

It is because during the height of the last recession, the majority party refused to allow any extension of unemployment benefits, because they were too busy falling all over themselves to cut taxes for the wealthiest Americans.

We just passed this week a permanent elimination of the estate tax, helping the wealthiest among us avoid paying any tax on their untaxed earnings, and passed a budget resolution that will cut health care to the indigent.

Mr. Speaker, bankruptcy reform has merit and should become law. It is the majority's overall agenda that is bankrupt and in need of reform.

Mr. CUMMINGS. Mr. Speaker, after eight years of consideration, we are now poised to enact bankruptcy legislation that is deeply flawed. Like so many of the policy priorities pursued by this Congress and the Administration, this bill hurts the most vulnerable among our citizens.

Many of my colleagues have already discussed the terrible provisions that the legislation now before the House would implement. For example, this bill would institute a means test for eligibility to file Chapter 7 bankruptcy that two national commissions have concluded would be counter-productive, difficult to administer, and would yield little revenue to creditors. It would remove critical automatic stay provisions that currently prevent the eviction of those who are seeking to clear arrearages in their rent. S. 256 also would reduce the amount of personal property that those filing for bankruptcy can retain.

The Republican-crafted and credit-industry driven bankruptcy reform bill is inapposite the goals for which bankruptcy was conceived. Bankruptcy is intended to provide a 'fresh start' to those who file—not leave them sinking in financial quicksand.

However, rather than highlight the numerous other misguided provisions of S. 256, I want to look for a moment at the economic policies of which this legislation is just one more disappointing part.

The sponsors of S. 256 claim that the rising number of people filing bankruptcies in our nation is evidence that there is widespread abuse of our current bankruptcy protections. Actually, the rise in bankruptcy filings is a powerful and tragic reminder that our Administration's economic policies are not raising living standards but are instead contributing to the increases in bankruptcy filings. I note that bankruptcy filings actually decreased in 2004.

In the Economic Report of the President delivered to Congress in February of this year,

the Administration wrote that the ''President's policies are designed to foster rising living standards at home, while encouraging other nations to follow our lead.'' The President's policies are not worthy of emulation in other nations—and they are not worthy of continuation in our nation.

Job creation in our nation is failing to keep pace with the growth in the labor force. The Brookings Institution has noted that since the year 2000, there has been a 2 percent decrease in workforce participation among young people aged 25–34, which is unprecedented since World War II.

Slow job creation has also put little pressure on businesses to raise wages. As a result, wages for many low- and middle-income workers are now not keeping pace with consumer prices. Perhaps not surprisingly, the Congressional Research Service found that in 2001, 27 percent of families in the lowest one-fifth of household income distributions had debt obligations that exceeded 40 percent of their incomes.

While workers are not seeing increases in their purchasing power, they are also being left without health insurance to cover their medical expenses. A recent Harvard Study published earlier this year found that nearly half of all bankruptcy filings involve some major medical expense. As recently as 1981, medical expenses accounted for less than 10 percent of bankruptcy filings.

Forty-five million Americans are now uninsured—and countless millions more regularly experience lapses in coverage. More than 38 percent of those who filed bankruptcy for medical reasons were found to have experienced some type of lapse in their insurance coverage during the two years preceding their filing.

In fact, 90 percent of the bankruptcies filed are by those who have been injured, are sick, have been laid off, and/or are going through a divorce. Laid-off workers are the fastest growing group of people filing bankruptcy.

All the while, credit card company abuses are mounting in the form of deceptive marketing practices, irresponsible accounting practices and other predatory practices. Negative amortization by credit card companies require minimum payments so low as to allow debt to increase rather than be reduced. These practices are designed to give the debtor a false sense of financial health while incurring more debt. The result is often inevitable. The minute a tragedy strikes and a debtor falls behind in one payment, debtors are often swarmed upon by all of their credit card companies—who want to collect immediately. This is an unfair result for these debtors and a boon for creditors.

And now, Congress is poised to add insult to uninsured injury by destroying the basic protections that our bankruptcy laws have offered to those most in need.

Mr. Speaker, the increase in personal bankruptcy filings in our nation is not proof that our bankruptcy laws need reform. It is, instead, proof that our economic policies need reform—and need reform urgently.

This bill only serves to disadvantage those honest Americans struggling to make ends meet. I urge my colleagues to oppose S. 256.

Ms. SOLIS. Mr. Speaker, I rise in strong opposition to S. 256, legislation that will make it harder for individuals to eliminate their debts after liquidating most of their assets by filing bankruptcy. Thousands of women and their children are affected by the bankruptcy system each year. This bill will only inflict additional hardship on over a million economically vulnerable women and their families. In fact, women are the fastest growing group to file for bankruptcy. More than 1 million women will find themselves in bankruptcy court this year, outnumbering men by about 150,000. Women who lose a job, have a medical emergency, or go through divorce make up more than 90 percent of the women who file for bankruptcy.

This legislation's means test provision would require even the poorest filers—struggling single mothers, elderly women who are victims of scam artists—to meet complicated filing requirements to access the bankruptcy system. In addition, the bill would make it much harder for women to collect child support payments from men who file for bankruptcy because the bill gives credit card companies, finance companies, auto lenders and other commercial creditors rights to a greater share of the debtor's income during and after bankruptcy. This bill pulls the rug out from under economically vulnerable women and children. It increases the rights of creditors while making it harder for single parents and others facing financial crises.

This harsh bankruptcy reform legislation will not help those families that are struggling to get by. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt. It is a gift to the credit card and banking industries; but one that will be paid for by those least able to afford it. Instead of giving a handout to credit card companies, we should ensure that Americans losing their jobs or struggling with medical debt have a second chance for economic security. That is what our bankruptcy laws are intended to provide. This bill is terrible for consumers, working families and women, and I urge my colleagues to vote against it.

Mr. CARDIN. Mr. Speaker, I support equitable reform of our nation's bankruptcy laws.

I recognize that there has been abuse of our bankruptcy system, and that reform is needed. I think we can all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury items prior to declaring bankruptcy, should be held accountable. It is contrary to our values as Americans—this idea that some people are able to abandon their debts by gaming the system. Their actions are not fair to the vast majority of Americans who work hard to pay their debts in full, and Congress should act to limit irresponsible use of our bankruptcy system.

I have in the past supported reasonable bankruptcy legislation, and although this bill does contain some good provisions, I regret that I cannot vote for the bill before the House today.

S. 256 would make it more difficult for individuals and families who have suffered bona fide financial misfortune to get a fresh start. It does so by establishing a rigid means test to determine if an individual is eligible for Chapter 7 relief. Regardless of the circumstances that led the individual to seek bankruptcy, the court is not permitted to waive the means test. In other words, ''one strike, you're out.''

I am disappointed that we did not add some reasonable flexibility measures to the ''means test.'' The stated purpose of the bill's means test is to prevent consumers who can afford to repay some of their debts from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test.

What are the reasons that individuals seek what we call ''bankruptcy protection?''

Harvard Law School recently researched bankruptcies and found that nine out of ten persons filing bankruptcy have faced job loss, severe health problems, divorce or separation. Illness or medical bills drove nearly half of these filings.

Unfortunately, the bill before us does not offer any relief in these or other tragic circumstances. I voted against the rule because it provides the House no opportunity to vote on amendments that would allow a court to consider extreme circumstances that might have led to bankruptcy filings.

I am disappointed that here in the House, the Judiciary Committee failed to close a popular loophole used by the very wealthy to shield millions of dollars by setting up asset protection trusts. If the majority were truly interested in creating a more fair bankruptcy system for all Americans, this would have been included in the bill.

The Judiciary Committee also failed to rein in some of the practices of credit card companies that are in part responsible for the rise in bankruptcy filings. They refused to provide credit card users with more detailed information to assist them in handling debt. Why not help consumers understand the consequences of their financial decisions, such as making only the minimum payment each month, so that they can avoid some of the missteps that can lead to higher debt?

We do need bankruptcy reform, and I wish that we had an opportunity to address many of these valid concerns.

I want to address the concerns of elderly Americans. The number of senior citizens in bankruptcy tripled from 1992 to 2001, representing the largest increase of any group of Americans. According to the Baltimore City Department of Aging, bankruptcies among elderly city residents have increased by nearly 50 percent over the past year.

Their costs of living are increasing steadily, including their rent, food, and heating costs. Many of them routinely use credit cards to cover their daily expenses. They are not spending frivolously—they are just getting by.

During previous Congresses when this bill was considered, employers were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. More than one million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation. From 2003 to 2004 alone, 192 plans were taken over by the PBGC. These retirees have seen their benefits reduced and so they must pay more for health care. But they have not had their debts reduced accordingly. An amendment in the other body that would have required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy was defeated.

Many seniors who do not yet qualify for Medicare or who have prohibitively high copays also pay medical bills and prescription

drug costs with credit cards. Often they skip dosages or forgo care entirely because they cannot afford it. We know the result, which is that many end up with much more severe conditions and many wind up in nursing homes. That translates into greater burdens on our federal and state budgets, and higher costs for us all.

I am disappointed that the victims of identity theft cannot seek relief under this bill. We have just learned that between ChoicePoint and Lexis-Nexis, thousands of individuals have been the victims of identity theft. In the last few years, the Ways and Means Committee has held fifteen hearings on a bill to reduce Social Security Number theft, and last year, we reported out a responsible bipartisan bill, but it was not brought to the floor. This year, I am again an original cosponsor of this bill, but it is not yet law, and so virtually every American remains at great risk for identity theft. Unfortunately, our vote on the previous question—to allow bankruptcy judges to take into consideration the fact that persons are forced into bankruptcy because of identity theft—was defeated.

Mr. Speaker, I want to vote for an equitable bankruptcy reform bill. So many Americans have been driven into bankruptcy not from a desire to game the system, but because of circumstances beyond their control. This legislation fails to adequately protect their legitimate needs. It is because of them that I must vote against this bill.

Mr. CANTOR. Mr. Speaker, we have before us today a bill that provides a safety net for people who have lost a job, had health problems, or served in the military and cannot repay their debts. It gives them the opportunity for a fresh start while continuing to hold accountable those who are able to repay their debts.

Bankruptcy abuse represents a ''hidden tax'' on the American people. When businesses have to raise the cost of their products due to unpaid liabilities, that cost is passed unfairly to all of us.

When people file for bankruptcy and cancel out their debts, small businesses suffer major financial setbacks. Bankruptcy to a small business triggers a change in its bottom line. A smaller bottom line means less money to pay employees, which leads to job cuts—something nobody would like to talk about, and certainly nobody would like to encourage.

This legislation will modernize the system and make it more difficult to hide behind the protections of filing for bankruptcy. With this bill we will lessen the impact of the unpaid debt that is a hindrance to thousands of businesses and hurts our ability to create jobs.

Mr. SHAYS. Mr. Chairman, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act. It is a basic principle of commerce in our country that when a person makes an obligation to pay someone for a good or service, they do so. We ought to address the fact that our nation had over 1.6 million bankruptcy filings last year, and an estimated $44 billion in debts are discharged annually. When creditors are unable to collect money owed to them, we all pay the cost in the form of higher costs, higher interest rates and higher downpayments.

I want to be very clear that this legislation will not prevent those who have incurred oppressive indebtedness from filing. It will apply a means test that weighs whether a debtor has enough disposable income to repay creditors. If, after applying this test, the debtor has little or no disposable income, they will be able to file for straight bankruptcy just as they always have. Those who earn wages and have the ability to repay, however, will be required to file for Chapter 13 bankruptcy, restructure their debt and repay a portion of it.

I have heard from a number of my constituents concerned about high credit card rates, predatory loan practices and identity theft. I share their concern and believe that after passing this legislation today, we must redouble our efforts to pass legislation curbing predatory lending, and we must build on the legislation we passed during the last Congress regarding identity theft.

This is comprehensive legislation and while supporting its passage, this body should pledge strong oversight and the willingness to review its effect on bankruptcy filers and the economy at large.

Mr. HONDA. Mr. Speaker, today, the Republican majority continues its assault on hardworking Americans by ramming through the House of Representatives bankruptcy legislation that harms even the most ethical among us. The legislation before us today is an indefensible gift to the credit card industry, and I urge my colleagues to join me in voting against it.

S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act, purports to introduce a greater level of personal responsibility into the bankruptcy system by eliminating various loopholes and incentives that encourage consumer bankruptcy filings and abuse. The bill's proponents argue that this kind of abuse is rampant, but expert analyses suggest another story. According to a Harvard study, about 50 percent of all families that file for bankruptcy are forced to do so as a result of medical expenses, and three-quarters of those individuals actually have health insurance. Another 40 percent have been driven into bankruptcy, at least in part, after suffering a job loss, divorce, or death in the family. The American Bankruptcy Institute estimates that no more than three percent of filers avoid repayment of debts by gaming the system. The simple truth is that almost all individuals declaring bankruptcy do so as necessity and a last resort!

Sadly, the mechanisms employed by this bill to crack down on bankruptcy abuse will have a disproportionate impact on women, minority communities, the elderly and the unemployed. It will impose a rigid means test that will make it more difficult for debtors to get a ''fresh start.'' The bill also will endanger child support payments, permit landlords to evict tenants, and frustrate efforts by debtors to save homes and cars. It betrays veterans who accumulate debt following an injury or disability sustained on active duty. In a final insult, the Republican leadership denied the opportunity for Democrats to offer amendments that would have protected veterans and other vulnerable communities.

While the Republican majority wishes to hold the average American accountable, it seeks to preserve privileges and loopholes for the financial industry and the rich. The bill does nothing to reign in credit card companies that engage in reckless lending, and it allows wealthy debtors in five states to declare bankruptcy and keep their multimillion-dollar homes without penalty. Once again, the Republican leadership thwarted amendments that would have evened the playing field for debtors and creditors. Amendments to close loopholes for millionaires, discourage predatory lending, and cap interest on extension of credit were flatly rejected by the Republican majority on the Rules Committee.

Reasonable bankruptcy reform may be necessary, but S. 256 is an abuse of the legislative process and a threat to the financial security of all Americans. I urge my colleagues to oppose S. 256.

Mr. ALLEN. Mr. Speaker, I rise in opposition to S. 256. This bill helps big credit card companies at the expense of working families in crisis.

A Harvard University study reports that more than forty-five percent of all bankruptcies are filed because of a health emergency. Approximately ninety percent of all bankruptcies are due to a health care debt, job loss, or a divorce. When this personal crisis happens, families are driven into crushing credit card debt that they ultimately cannot manage.

Working families are being squeezed by skyrocketing health care costs, gas prices, and housing costs. At the same time, this Republican Congress is reducing the social safety net for working families: Medicaid, Social Security, and now, bankruptcy protections.

Mr. Speaker, I know there are people abusing the bankruptcy code. But There are also companies marketing loans to people who cannot afford them. Credit unions and community banks make responsible loans and do responsible underwriting. But this bill does nothing to make big credit card companies curb their abusive marketing strategies or practice responsible underwriting.

Vote ''no'' on S. 256.

Mr. UDALL of Colorado. Mr. Speaker, I do not support this bill in its present form—and, since the Republican leadership has made it impossible for the House to even consider any amendment, I have no choice but to vote against it.

In recent years, Colorado has been one of the states with the greatest increase in bankruptcy filings. Opinions vary about the causes, but this fact does suggest a need to consider whether the current bankruptcy laws should be revised. So, I am not opposed to any change in the current bankruptcy laws, and in fact I think some of the bill's provisions would make reasonable adjustments in those laws.

But this legislation was first developed years ago and neither its supporters nor the leadership have been willing to give any real consideration to adjusting it to better reflect current conditions.

In particular, I think that the bill should have been amended to more appropriately address the financial problems being encountered by some members of the regular Armed Services as well as by members of the National Guard who have been called to active duty in Iraq or elsewhere.

If the motion to recommit had prevailed, the bill would have been amended to exempt from the means test at least those National Guard and Reservists whose debt resulted from active duty service or was incurred 2 years of returning home from their service. Unfortunately, the motion was not adopted.

For me, this is a very serious matter and the lack of such an amendment is one of the main reasons I cannot support the bill.

Under these circumstances, I am not persuaded that the bill now before us is the right

prescription for Colorado or our country. I think it still needs work—and because of both its shortcomings and the refusal of the leadership to permit consideration of any changes, I cannot support it.

Mr. KIND. Mr. Speaker, I rise today in support of this legislation because the current system needs reform to protect those people truly in need of debt relief, while holding accountable those who can repay their debt.

Bankruptcy filings have risen steadily in recent years, an indication that our current system is an ineffective one that discourages consumers from saving and planning responsibly and ultimately isn't good for consumers, families, or a society that values individual responsibility. I believe bankruptcy should be a last resort—one that allows people who need protection to receive it and people who can repay all or some of their debts to do so. The system in place now gives incentives to people in trouble and encourages them to steamroll headfirst into Chapter 7 liquidation of all their debts, even when they could get back on their feet through a reasonable repayment plan or basic credit counseling.

While S. 256 is not a perfect bill, I do believe it goes great lengths in addressing the growing problem of bankruptcy in this country. I believe there is great misunderstanding about what this bill does and who will be affected. Only those earning above the median income and who have the ability to pay will be required to pay back their debt. However, millionaires who use bankruptcy law as a method of financial planning will no longer be able to buy extravagantly and subsequently have all of their debt written off.

It is also important to note that many families and small businesses will benefit because of changes to this law. Bankruptcy costs are passed on to other consumers, and the average family pays hundreds of dollars each year in higher prices. Additionally, small businesses that might otherwise not be paid for their goods or services will have a better chance of gaining compensation as a result of this bill. A very positive aspect of S. 256 is that it makes permanent Chapter 12 of the bankruptcy code. I, along with other members of Congress, have been working for years to make permanent this much-needed source of relief for our family farmers.

There have been accusations that this bill will be detrimental to the most needy; in fact, there are a great deal of safeguards. S. 256 includes protections ensuring that alimony and child support payments are made. I believe single parents and dependent children need our help far more than millionaires who benefit from current bankruptcy laws. Additionally, families who have exorbitant medical bills they cannot afford can still file for Chapter 7, and judges will still have a great deal of discretion when it comes to the issue of means-testing.

In addition, this legislation will create new disclosure requirements for lending institutions to provide better information to consumers about credit cards and debt. This is particularly important for young adults who are bombarded by credit applications and have limited knowledge about the risks that accompany credit card ownership.

It is important to note that this legislation is only the first step in addressing the bigger problems underlying savings in this country. With an over-reliance on credit cards and a lack of saving for retirement, too many Americans find themselves on shaky financial ground. Addressing this problem must be our next goal, and we must encourage more personal responsibility in consumers.

The Bankruptcy Abuse Prevention and Consumer Protection Act will benefit consumers and provide all Americans with better access to credit. It helps prevent abuse of the system while providing debt protection to those who truly need it. I urge my colleagues to support this legislation.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Action. The title of this bill is a misnomer. It should be titled the ''Corporate Protection and Improved Profitability Act''. If passed, this Act will be a boon for credit card and financial lending institutions and a nightmare for American families who are struggling to stay strong in an economically depressed society. Essentially, the House is contemplating legislation that is more punitive to individuals seeking bankruptcy protection than corporations that resort to filing for bankruptcy.

I also have concerns about House procedures for S. 256. A closed rule was employed, resulting in thirty-five Democratic amendments being rejected from consideration. Debate on an amendment to the bill was prevented. Thirty-five amendments were submitted before the Rules Committee and not one was accepted. Not only were members of the House prevented from engaging in debate but also the American people have been denied the opportunity to hear legitimate debate regarding this Act we are considering today. I am especially distressed about the majority's refusal to accept amendments that related to identify theft and exemptions for disabled veterans whose indebtedness occurs after active duty.

My review of S. 256 compels me to conclude that the framers of the bill failed or refused to recognize that recent economic policies by the current administration have directly contributed to the proliferation of bankruptcy filings by consumers. Burgeoning deficits, perpetual and high unemployment, and the exportation of jobs overseas are just a few of the by-products of failed and poorly conceived government policies that have contributed and continue to contribute to the need for individuals to seek bankruptcy protection.

I also oppose S. 256 because it does absolutely nothing to stem the predatory practices employed by credit card companies, or the abusive fees and penalties imposed on individuals who make just one late payment. Further, the wealthiest citizens in our country are able to insulate their assets by placing them in trusts that are protected in bankruptcy proceedings.

I staunchly oppose S. 256. Democrats were denied the opportunity to offer amendments, the American people have been denied a full opportunity to determine the full implications of the changes in bankruptcy law, and the Act is fundamentally anticonsumer.

Mr. Speaker, my conscience dictates that I oppose S. 256. I encourage my House colleague to vote No on the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mrs. DAVIS California. Mr. Speaker, I rise to voice my opposition to the bankruptcy reform legislation before us today.

Unfortunately, there are individuals who abuse the credit system and use it for their own gain.

This is wrong and we should be working to stop those who take advantage of the bankruptcy laws.

However, I worry S. 256 will hurt the thousands of Americans who have absolutely no choice but to file bankruptcy as a last resort.

Specifically, I am concerned about the impact on our brave service members and our military families.

The numerous activations and extended tours of duty in Iraq and Afghanistan are causing our military families to face debt and serious financial strain.

Studies show that the incomes of military, families decrease significantly when the service member is deployed.

Four out of 10 Reservists, for example, take a drop in pay once they are deployed overseas.

I have met with military families in San Diego who are facing the realities and the financial strain that come with activation.

I worry about the military spouse whose husband is activated to serve in Iraq for a year and must leave his job or his business.

Somehow, we expect the spouse to care her children, to make the house payment, and to pay the bills on an income that is significantly lower.

Some military families will have no choice but to file for bankruptcy because of the environment we have created for them.

The bankruptcy reform bill before us today does not address the needs of our military families and the realities they are facing.

S. 256 will make it harder for military families to recover from a bankruptcy because of the additional costs and the stricter requirements.

The Senate did include provisions exempting military personnel serving in combat from certain provisions of the bill.

But, unfortunately, the financial impact of an extended deployment could remain long after the service member returns home to his family.

S. 256 does not recognize this reality and does not consider the difficult circumstances facing military families today.

I am against passing legislation only adding to the enormous burden we are already placing on those defending the United States and the families sending a loved one into harm's way.

I urge my colleagues to vote against the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mr. UDALL of New Mexico. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their irresponsible lending. Unfortunately, this bill does neither. In fact, this bill overly penalizes working families and takes no action against reckless and predatory lending.

Mr. Speaker, in addition to my reservations about the legislation, I also strongly object to the rule under which S. 256 is being debated. The majority has, once again, passed a rule that stifles debate and blocks serious and substantive amendments. There were more than 30 thoughtful amendments brought before the

Rules Committee, yet they did not allow a single one to be brought before the full House. These amendments would have addressed the impact that this bill would have on groups such as disabled veterans returning from Iraq, single parents, families experiencing a catastrophic medical event, and people who are victims of identity theft. This continued smothering of the democratic process by the majority is shameful and must stop.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen considerably in the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2003, that number rose to over 1.66 million. The number of filings has dropped 3.8 percent in 2004 down to 1.59 million. Though this is headed in the right direction, I understand that more has to be done. S. 256, however, is not the answer.

S. 256 is full of provisions that I adamantly oppose. It 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 women, the unemployed, and the elderly. Reform in this bill is skewed toward restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

S. 256 fails to find a middle ground between lenders and borrowers. While it is critical that individuals begin taking greater responsibility for their debt, so too must the credit card industry take greater responsibility for shamelessly targeting individuals with their credit card applications. It is these 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. S. 256 does nothing to help break this vicious cycle.

I would like to reiterate that I strongly support the principle of increased personal responsibility for debt, but I believe this bill 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. Unfortunately, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. SMITH of Texas. Mr. Speaker, it's time for Congress to enact meaningful bankruptcy reform. Unless we take action, people will continue to abuse the system by filing for bankruptcy as an easy out. When people avoid their debts, someone still has to pay. Companies absorb the cost of unpaid debts by passing along these costs to consumers.

Over a million people file for bankruptcy each year. Many of these filings are legitimate attempts by debtors to pay their debts and obtain a fresh start. However, bankruptcy is too often used as a way to avoid responsibilities.

Unnecessary bankruptcy filings continue to increase at dramatic rates. Often, individuals go on spending sprees for luxury goods and services just before filing for bankruptcy, knowing that they can wipe the slate clean and avoid paying for what they bought.

This is bad for consumers and bad for our economy. When individuals avoid their debts when they could be paid off, the costs are passed on to America's businesses and consumers. We must ensure that debtors actually belong in bankruptcy and are not using the system to avoid their obligations.

This bill stops abuse by eliminating incentives in the current bankruptcy system that actually encourage consumer bankruptcy filings and abuse. It requires those who can repay their debts to do so. It also gives courts greater power to dismiss frivolous or abusive bankruptcy filings and punish lawyers who encourage these filings.

This bill also contains provisions I support to address those who abuse state homestead laws and attempt to shelter their wealth in multi-million dollar mansions. It requires a debtor to own their homestead for at least 40 months before he or she can use state exemption law. And, if a debtor has committed an intentional tort, a criminal act, or violated securities laws, their homestead exemption will be capped at $125,000. These provisions will close the loophole that currently allows debtors to abuse the homestead provision.

This legislation will encourage personal responsibility, protect consumers, and ensure that bankruptcy is used only as a last resort and is not abused by those who can afford to repay their debts.

Mr. WELDON of Florida. Mr. Speaker, for years, honest but unfortunate consumers have had the ability to plead their case to come under bankruptcy protection and have their reasonable and valid debts discharged. The way the system is supposed to work, the bankruptcy court evaluates various factors including income, assets and debt to determine what debts can be paid and how consumers can get back on their feet. The bill before us preserves that right for those individuals who simply get in over their heads and have no other way out

Unfortunately, some dishonest individuals have taken advantage of our bankruptcy laws by hiding assets, racking up debt in anticipation of filing for bankruptcy, using bankruptcy as a financial planning tool, and walking away from that which they owe. This hurts our economy because it forces retailers and businesses to simply raise the prices of goods and services for honest Americans. All Americans end up paying the costs for those who have gamed the bankruptcy laws.

I support S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. I am a cosponsor of the House version of this bill. This common sense legislation preserves the right to file bankruptcy for those who truly cannot repay their debts while ensuring that those who do have the ability to repay a portion of their debts do so.

S. 256 provides the same kinds of bankruptcy reforms the House has approved twice before. It restores the principles of fairness and personal responsibility to our bankruptcy system and protects the rights of consumers. S. 256 also requires creditors to help prevent credit card abuse through new disclosures and educational provisions.

This is a good bill for average American consumers, for American businesses, and our economy as a whole.

Mrs. BIGGERT. Mr. Speaker, it is with great pleasure that I rise today to express my strong support for The Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says: ''Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.'' And that's exactly what this bill before us today will do.

There are many reasons to support this Bankruptcy Reform Bill, but I want to focus on one that is important to many of my colleagues, to me and to the American people. We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand-in-hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We have passed many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers.

Unfortunately, for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge. Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, S. 256, also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Before the House considers S. 256, I want to highlight, for my colleagues, some of the bill's important financial literacy provisions:

First: the bill will facilitate educating future generations. It expresses the ''Sense of the Congress'' that personal finance curricula be developed for elementary and secondary education programs. If we teach our children, early-on, how to manage money, credit, and debt, they can become responsible workers, and heads of households and keep their parents out of bankruptcy court.

Second: the bill will provide for pre-filing credit counseling. It requires debtors, prior to filing for bankruptcy, to receive credit counseling from a nonprofit counseling agency. The counseling must include a budget analysis and disclosures regarding the possible impact of bankruptcy on a debtor's credit report.

Next: the bill will provide for pre-discharge financial education, requiring debtors to complete an approved instructional course on personal financial management prior to receiving a discharge under Chapter 7 or 13.

The bill will also include important exceptions. It authorizes phone and Internet counseling for both the pre-filing and pre-discharge education requirements to assist debtors in rural and remote areas. In addition, either or both requirements may be waived if services are not available or in exigent circumstances.

Finally, the bill requires the Director of the Executive Office for U.S. Trustees to: (1) develop a financial management training curriculum and materials to educate individual debtors on how to better manage their finances; and (2) evaluate and report to the Congress on the curriculum's efficacy. This will ensure that Congress can evaluate the effectiveness of these financial literacy provisions in the long-term.

Last week, we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this

month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remains at a historic high—over 1.6 million bankruptcy cases were filed in federal courts in 2004. With that in mind and in the spirit of Financial Literacy Month, I urge my colleagues to pass S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, which contains important financial literacy provisions that will provide Americans with the skills needed to successfully navigate the world of personal finance.

Mr. Speaker, let's help our fellow citizens avoid bankruptcy altogether. ''Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.'' Vote for S. 256.

Mr. CASTLE. Mr. Speaker, I am submitting for the RECORD the following remarks from Mr. Arkadi Kuhlmann, CEO of ING DIRECT, in opposition to the bankruptcy reform legislation under consideration. I remain a strong supporter of S. 256; however, I believe Mr. Kuhlmann's statement should be made part of the RECORD.

STATEMENT OF ARKADI KUHLMANN, CEO, ING DIRECT

Mr. Speaker, I am Arkadi Kuhlmann, CEO of ING DIRECT, a federally chartered thrift headquartered in Wilmington, Delaware. ING DIRECT launched in the U.S. in September 2000 to challenge traditional banking by touting the high interest, no fee and no minimum Orange Savings Account as its signature product, with a brand vision to lead Americans back to saving.

ING DIRECT has since expanded its product line to include the Orange Mortgage, the Orange Home Equity Line of Credit, Orange CDs and the Orange Investment Account. With over 2.5 million customers and more than $43 billion in assets, ING DIRECT is the fourth largest thrift in the U.S.

The House is now considering consumer bankruptcy legislation that would make major changes to how consumers' debts and obligations are treated in the bankruptcy process. Thank you for this opportunity to submit testimony for the record on this legislation.

Despite the many important and positive changes this bill would make to our bankruptcy laws, this proposal remains seriously flawed. One significant oversight is the bill's failure to consider one of the biggest problems we face in business today: identity theft.

The Washington Post ran a story recently about a woman whose identity was stolen, yet her credit card company forced the fraudster's debt on her by using the arbitration clause in her card agreement.

The Bankruptcy Bill must address the possibility that identity theft could lead to financial devastation through no fault of the person's own. In addition to overlooking the problem of identity theft, this proposal had additional shortcomings. It actually encourages further bad lending decisions by removing an important market discipline—the possibility of a clean bankruptcy.

Without important changes, millions of consumers, who might otherwise be savers, will be encouraged into debt by aggressive credit card and other lending. We believe it is crucial that a serious study of the connection between credit card marketing and personal bankruptcy be completed. The bill as drafted requires such a study. We challenge the Congress to take a very hard look at the results of the study and consider further legislation, if necessary.

Another important issue is the Bill's creation of a ''means test.'' By giving disparate treatment to secured versus unsecured debt, the law would treat secured creditors even more favorably than under current rules. We believe the means test should be applied across the board or not at all.

We at ING DIRECT believe this country is still willing to give working Americans—the engine of our economy—a second chance when debt overwhelms them. This bill seriously limits that second chance.

Thank you for the opportunity to present our views.

Mr. FARR. Mr. Speaker I rise in strong opposition to the misnamed ''Bankruptcy Abuse Prevention and Consumer Protection Act,'' (S. 256). Current bankruptcy law needs some adjustment, but this bill is not the solution. It hurts middle-class consumers in a variety of ways: the bill would allow landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the women's physical well-being; and, it permits credit card companies to reclaim common households goods which are of little value to them, but very important to the debtor's family.

It is very important to note that the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled and nothing to crack down on unscrupulous payday lenders that prey on members of the armed forces.

Last year nearly one and a half 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 is a grave mistake to punish these individuals while rewarding credit card companies and business lobbyists at a time when corporate greed has already destroyed the lives of millions of American workers. I will support a balanced bankruptcy reform bill, but S. 256 is in no way balanced and I believe does more harm than good, therefore I strongly oppose this bill.

Mr. GENE GREEN of Texas. Mr Speaker, I rise today in opposition to this bill.

This bill will weaken homestead protections currently in place under state laws, hurting my constituents, the citizens of Texas, and the citizens of any other states that have laws protecting individuals' homes valued over $125,000, which is the limit this bill sets.

Texas, which has the longest and oldest history of homestead protection laws in our country, has no cap on homestead protection, along with Kansas, Iowa, Florida, and South Dakota.

Minnesota, Rhode Island, and Nevada's laws protect home equity of $200,000.

Property values across the nation vary widely. The median resale price of a home in California is $215,000. In Nebraska it's $70,200.

While I understand there must be a sensible cap on exemptible home equity to ensure the law is not protecting million dollar mansions, $125,000 is unreasonable given the skyrocketing price of real estate in Texas and many other parts of the country.

This bill will make bankruptcy even more expensive and burdensome than it already is, on hardworking Americans who have fallen on hard times and seniors on fixed incomes, while doing nothing to address the out of control lending practices by credit card companies.

Mr. Speaker, I cannot support a bill that will hurt hard-working Texans, and I oppose this bill.

Mr. LEVIN. Mr. Speaker, I rise in opposition to the bankruptcy bill before the House.

This legislation has two fundamental flaws. The first problem is that the bill does not distinguish between those individuals who abuse their credit and then seek to wipe the slate clean through Chapter 7, and those who enter bankruptcy as the result of a costly medical emergency or after one of the breadwinners in a family loses their job. We need to make a distinction between a family who is struggling to pay for a medical operation for a child and a person who maxes out their credit cards on a shopping spree at the mall. This bill does not do so.

A recent Harvard University study underscores the fact that the bankruptcy bill's impact will extend well beyond cracking down on people who abuse credit. The study looked at 1771 bankruptcy filers in five states. The results were striking: Half of the people in the study said that illness or medical bills drove them into bankruptcy. Most of these people actually had some health insurance; but high co-payments, deductibles, exclusions from coverages left them liable for thousands of dollars in out-of-pocket costs when serious illness struck. Other people in the study suddenly lost their jobs and therefore their health insurance. In many cases, people were let go from their jobs soon after the onset of a debilitating illness, so the medical bills begin to arrive just as the insurance and paychecks disappear.

The second fundamental problem left unaddressed by the bill is the credit card industry's role in the surge of bankruptcy filings in recent years. The industry hands out credit cards like popcorn, and then loads on extraordinary penalty fees and higher interest rates after a payment is late. The result is that even if someone wants to pay off their credit debts, they are unable to do so because of thousands of dollars of punitive fees and penalty interest rates that can run as high as 40 percent. The lending policies of the credit card companies themselves is a major factor in driving consumers into bankruptcy, yet the legislation before the House does nothing to end these abuses.

I include with my statement an article from the March 6 edition of the Washington Post entitled, ''Credit Card Penalties, Fees Bury Debtors; Senate Nears Action on Bankruptcy Curbs.''

[From the Washington Post, Mar. 6, 2005]

CREDIT CARD PENALTIES, FEES BURY DEBTORS; SENATE NEARS ACTION ON BANKRUPTCY CURBS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

''I was really trying hard to make minimum payments,'' said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. ''All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties.''

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

''How is it that the person who wants to do right ends up so worse off?'' Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens ''unconscionable.''

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as anti-abortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of ''negative amortization,'' which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, ''some arm-twisting.'' But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

''It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management,'' said Nessa Feddis, senior federal counsel for the American Bankers Association. ''There has to be some onus on the cardholder, some responsibility to manage their finances.''

High fees ''may be extreme cases, but they are not the trend, not the norm,'' Feddis said.

''Banks are pretty flexible,'' she said. ''If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else.'' Banks are also willing to work out settlements with people in financial difficulty, she said, because ''there are still a lot of options even for people who've been in trouble.''

Many bankruptcy lawyers disagree. James S.K. ''Ike'' Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads ''are spending money, buying things they shouldn't be buying.'' Even so, he said, ''once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off.''

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, ''the credit card company is legally entitled to collect every dollar without a distinction'' whether the balance is from fees, interest or principal, said retired U.S. bankruptcy judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to ''pay finance charges (at a whopping 29.99%), late charges, over-limit fees, bad check fees and phone payment fees.'' Mitchell allowed the claim ''because the debtor admitted owing it.'' McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: ''When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee.'' The 29.99 percent interest rate, he said, is the default rate charged to consumers ''who don't meet their obligation to pay their bills on time'' and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. ''Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30-year-mortgage. The interest is much, much more than the principal.''

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is ''refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge,'' failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

''Late fees aren't the cause of debt,'' he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because of, the large increase in cards, there is a ''fee feeding frenzy,'' among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. ''The whole mentality has really changed over the last several years,'' with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. ''If you drag that out for a year, it could be very damaging,'' he said. ''Late and over-limit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $3,000 balance can add another $1,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments.''

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, ''people would be better off if they stopped paying'' once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a

debt collector. ''They may harass you, but your balance doesn't keep rising. That's the irony.''

Mr. LANGEVIN. Today I rise in support of the Pomeroy substitute to H.R. 8, the Estate Tax Repeal Permanency act, and in opposition to the underlying bill. As the son of a small business owner, I know firsthand the tax burden placed on entrepreneurs and working families, and I support efforts to responsibly protect small business owners.

The Pomeroy substitute provides needed relief by eliminating estate taxes for assets totaling $3.5 million per individual or $7 million per married couple. Increasing the exemption to this level would mean that 99.7 percent of all estates will not pay a single penny of the estate tax. Small businesses and farm owners should not be penalized for their success, nor should they need to worry about their ability to pass the family business on to future generations, and the substitute addresses these concerns.

H.R. 8 goes far beyond providing fair tax relief to small businesses and family farms. While the benefits overwhelmingly go to the wealthiest 0.3 percent of estates, Republican leaders fail to mention that their proposal actually raises taxes on thousands of estates, including those not previously affected by the estate tax. This is because their legislation increases capital gain taxes owed on inherited property. The Department of Agriculture estimates that this change will raise taxes on more farms than would benefit from repealing the tax.

The Republicans' call for repealing the estate tax comes at a time when our government is already in fiscal crisis. Ending the estate tax will reduce revenues by $290 billion over ten years, and by 2021, this legislation will have added a total of more than $1 trillion to our debt. With a $400 billion deficit projected this year, now is not the time to add trillions in debt to the tab that future generations must pay. These added costs also come as the President proposes to privatize Social Security at a cost of up to $6 trillion. In addition, the House recently passed a budget that cuts $20 billion from Medicare and underfunds critical priorities including veterans' health care and homeland security. We must work to meet our existing obligations rather than cutting taxes for the wealthiest 0.3 percent of families in America.

Based on Internal Revenue Service data for 2004, out of approximately 10,000 deaths in my home state, only 312 Rhode Island decedents filed estate tax returns. This number would be much lower with the $3.5 million exemption under the Pomeroy substitute. Under our Democratic alternative, most small business owners and family farmers would receive estate tax relief.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Our small business owners are in need of relief, and we must provide it without leaving future generations to pay the bill.

Mr. ROYCE. Mr. Speaker, today, Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass S. 256.

Included in this bill 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.

By empowering the government to go after the ill-gotten gains that crooked corporate officers tie up in offshore mansions, shareholders and pensioners who have been swindled can have their hard-earned savings returned to them.

In addition, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, protecting taxpayers from having to bear the cost of corporate malfeasance.

It also guards against fraud and abuse by requiring that high-income debtors who have the ability repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab. 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 work hard and pay their bills have been held accountable for the debts incurred by those who irresponsibly file for bankruptcy.

This long-overdue legislation will reform the critically-flawed bankruptcy process, and prevent affluent filers from gaming the system and passing on their bad debt 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 the 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.

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.

Mr. MACK. Mr. Speaker, I rise today in support of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I came to Congress to promote the ideals of freedom, security and prosperity. Embodied within these principles is the duty of the American people to take responsibility for their actions—including control of one's personal finances and investments—without undue influence from the federal government.

Under current law, bankruptcy protection has increasingly become a first stop rather than a last resort. Our credit markets have been undermined on a daily basis because of the abuse of the existing laws. All too often, people run to the shelter of bankruptcy to escape the consequences of their actions, all to the detriment of the rest of society. That is fundamentally wrong.

Mr. Speaker, the Bankruptcy Abuse Prevention and Consumer Protection Act reforms existing bankruptcy law to stem the rise in bankruptcy abuse while maintaining its protections for those who really need them. The act places compassionate, coherent, and common-sense reforms on the current system. It ensures that frivolous costs are no longer unfairly passed on to American families.

Mr. Speaker, as a supporter of the Bankruptcy Abuse Prevention and Consumer Protection Act, I encourage my colleagues to vote for this well-balanced measure that will protect those individuals who need a fresh start while cracking down on abuse of the system.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the ''Bankruptcy Abuse and Consumer Prevention Act of 2005.''

It has been seven years since we made our first attempt to reform the bankruptcy system in the 105th Congress and thanks to the tireless efforts of Chairman SENSENBRENNER's Committee, we can see a real chance for passing a full and comprehensive bill this year.

Mr. Speaker, we have seen a sharp increase in bankruptcies over the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings—a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the costs of consumer's filing for bankruptcy don't understand how business works. American families are paying the price for this debt—some studies reflect $400 per year in every household—by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation before us passes today it will be the American families that are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses to collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change, coupled with Congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs, are both useful methods of curbing future debt. As Chairman of the Education Reform Subcommittee, which has jurisdiction over all K–12 programs, I feel strongly that educating future spenders can prevent debts incurred as adults.

I also support the new requirement for lending institutions, which will now have to take additional steps to ensure consumers fully understand the ramifications of credit spending. Credit card billing statements will now reflect the actual time it would take to repay a full balance at a specified interest rate; contain warnings to alert consumers that paying only the minimum will increase the amount of interest; and list a toll-free number for consumer's to call for an estimate of the time it would take to repay the balance if only the minimum is paid. With these steps, lending institutions can improve their chances of repayment while proactively educating consumers of true costs associated with borrowing.

I believe the ''Bankruptcy Abuse and Consumer Protection Act'' reflects fair solutions to minimizing spending abuse, while protecting those with genuine hardship. Relief is still available for low and moderate income families. However, this legislation will end the protection for those who make obvious attempts to abuse their credit. Those who are able to pay their debts—will now be held to those commitments—through means testing. A means test would be used to determine a debtor's eligibility for Chapter 7 bankruptcy relief, where the majority of debt is excused, or Chapter 13, where a significant portion of debt

must be repaid. Importantly, disabled veterans would be exempt from the means test if their debts occurred primarily as a result of being called to active duty or for homeland defense operations.

Lastly, Mr. Speaker, this legislation also includes four additional judges for Delaware's bankruptcy court. This increase is long overdue, as the bankruptcy caseloads in Delaware continue to exceed other districts' caseloads for Chapter 11 businesses cases. Last year alone, weighted filings for Delaware judges were 11,789, while the national average was 1,763—in other words, the Delaware caseload was 10 times the national average. The Delaware District tends to have the largest Chapter 11 business cases, often referred to as the ''mega'' Chapter 11 cases which are ''those involving extremely large assets, unusual public interest, a high level of creditor involvement, complex debt, a significant amount of related litigation, or a combination of such factors.'' These are complex cases in which the judicial system in Delaware has built a high level of expertise as well as a sound reputation for fair practices. I am pleased the legislation before us today takes a solid step towards alleviating Delaware's heavily burdened bankruptcy court system.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, common-sense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. TERRY. Mr. Speaker, in pertinent part, section 202 of S. 256, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005,'' amends section 524 of the Bankruptcy Code by making the discharge injunction inapplicable to certain acts by a creditor having a claim secured by a lien on real property that is the debtor's principal residence, so long as the creditor satisfies certain criteria. First, the creditor's act must be in the ordinary course of business between the creditor and debtor. Second, such act is limited to seeking periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

Section 202 was included because Congress recognized that there are many consumer debtors who, despite filing bankruptcy, desire to repay secured obligations in order to retain their principal residences. Under current law, however, some secured creditors stop sending monthly billing statements or payment coupons for fear of violating the discharge injunction. Section 202 is intended to reassure these secured creditors that if consumer debtors want to continue making voluntary payments so they can keep their principal residences, then secured creditors may take appropriate steps to facilitate such payment arrangements, such as continuing to send monthly billing statements or payment coupons.

Moreover, despite the express reference in this provision to liens on real property, section 202 should not, by negative inference or implication, be construed as limiting any rights that may have developed through existing case law, or otherwise, that permit secured creditors to send, or consumer debtors to request and receive, monthly billing statements or payment coupons for claims secured by real or personal property. See, e.g., Ramirez v. GMAC (In re Ramirez), 280 B.R. 253 (C.D. Cal. 2002); Henry v. Associates Home Equity Services, Inc (In re Henry), 266 B.R. 457 (Bankr. C.D. Cal. 2002).

Mr. KOLBE. Mr. Speaker, after eight years of intense Congressional scrutiny and debate, this long-overdue legislation is now close to becoming law. I will vote in favor of this legislation, just as I have supported similar bills in the past, and I encourage my colleagues to pass S. 256 without amendments so it can go directly to the President for his signature.

Without a doubt, bankruptcy reform is needed. Under current law, it is far too easy for debtors with significant cash resources to declare bankruptcy and walk away from their debts, even when they have the ability to pay a substantial portion of those debts. Bankruptcies cost the rest of us American taxpayers billions of dollars each year. Why? Because commercial institutions have to pass their losses on to everyone else in the form of higher prices and higher interest rates. The Bankruptcy Abuse Prevention and Consumer Protection Act is a well-balanced measure that will permit people with real financial need to get a fresh start, but lessen the burden placed on other working Americans who now must support people who are taking advantage of the system.

This bankruptcy reform bill will force those who have the ability to repay their debts to do so. At the same time, it provides safeguards such as child and spousal protections, debtor education, and mandatory credit counseling before someone files for bankruptcy. The bill also makes common-sense revisions to homestead exemptions to reduce the ability of a wealthy individual shielding his money in an extravagant home just prior to filing bankruptcy.

Put simply, this legislation helps restore the fundamental concept of personal responsibility in the bankruptcy system. I urge my colleagues to adopt.

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

The SPEAKER pro tempore (Mr. PUTNAM). All time for debate has expired.

Pursuant to House Resolution 211, the bill is considered read for amendment, and the previous question is ordered.

The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. SCHAKOWSKY. Yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Ms. SCHAKOWSKY moves to recommit the bill (S. 256) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 14, after line 6, insert the following:

''(E) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case filed under this chapter based on any form of means testing—

''(i)(I) while the debtor is on, and during the 2-year period beginning immediately after the debtor is released from, active duty (as defined in section 101(d)(1) of title 10); or

''(II) while the debtor is performing, and during the 2-year period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32); and

''(ii) if—

''(I) after September 11, 2001, the debtor was called to active duty or to perform a homeland defense activity; and

''(II) a substantial portion of the debts arose on or after September 11, 2001 and resulted from the debtor's service on active duty or the debtor's performance of a homeland defense activity.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes in support of her motion.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today with the gentleman from Ohio (Mr. STRICKLAND) to offer this motion on behalf of our brave citizen soldiers who are risking their lives for us and then, as a thank you, risking their homes and their businesses, too. Our motion simply shields financially distressed National Guard and Reservists from the means test found in S. 256 while they are in service and for the 2 years after they have transitioned back to civilian life if a substantial portion of their debt is due to their service.

This motion is a narrow protection for those who suffer financial hardship, financial disaster, as a direct result of serving our country. It builds on Senator DURBIN's amendment to the Senate bankruptcy bill which exempts from the bill's means test disabled veterans if their debts were incurred primarily when they were on active duty or performing homeland defense duties.

Regardless of Members' position on the overall bill, we owe it to those who risk their lives and their livelihoods to prevent financial catastrophe caused by their service. This motion is the least we can do to ease their pain.

According to the National Guard, 4 out of 10 members of the guard and reserve forces lose income when they leave their civilian jobs for active duty. Many left for the war thinking they would be deployed for 6 months and have ended up staying for a year or even longer and may be shipped out again. There is no reasonable way they could have financially anticipated and prepared for those extensions of their service. Their families struggle to pay the bills. Some face the reality of losing their homes, as this cartoon depicts: Tie a yellow ribbon around the old oak tree, and for some of those returning from Iraq, it is a foreclosure sign around their house.

Many Guard and Reservists are self-employed or run small businesses and face the daunting task of reestablishing their businesses after their release from active duties. The 2 years after they return from service are the

most difficult, and we owe it to them to provide a safe harbor from the means test.

Since 9/11, approximately 470,000 Guard and Reservists have been called to active duty, tens of thousands more than once. Some of these patriotic Americans are facing financial crisis not because they are exploiting loopholes in the bankruptcy law, they are not scheming to avoid paying their debts, they are in a financial hole their country dug for them.

Some will argue we do not need this motion because our solders are already covered by the Servicemembers' Civil Relief Act, but that is not true. Even with that minimal help, many are forced to file for bankruptcy and the relief act provides no assistance once they file. It is hard enough under current law for them to pick up the pieces. The special circumstances and sacrifices of Guard and Reserve forces require that we not make recovery even harder for them. Soldiering is not their livelihood, but they take it on. They leave their day-to-day lives and jobs behind because their country asks them to do so. Exemption from the means test is the least we can do to tell our citizen soldiers and their families not only do we appreciate the physical and emotional risks they have taken, we recognize their financial risk.

To do any less than this simple, narrow protection would be morally bankrupt.

DISABLED AMERICAN VETERANS,
Washington, DC, April 1, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Minority Member, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS: The Disabled American Veterans (DAV) is a nonprofit organization of more than one million veterans disabled during time of war or armed conflict. The DAV is the official voice of our nation's service-connected disabled veterans, their families, and survivors.

On behalf of the DAV, I ask you please keep in mind the sacrifices of the brave men and women of our Armed Forces as you consider S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Returning service members often experience financial difficulties during their transition back to civilian life. They should be afforded protections to ensure that the already significant burdens upon military members and their families are not compounded by unintended consequences from this bill. Specifically, disabled veterans who incur debt during the initial 24 months following completion of active duty should not be subject to the bankruptcy means test. Such heroic citizens deserve the utmost consideration with regard to bankruptcy laws.

Thank you for your consideration. I look forward to continuing to work with you to ensure better lives for America's service-connected disabled veterans and their families.

Sincerely,

JOSEPH A. VIOLANTE,
National Legislative Director.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND), a champion for our service men and women.

Mr. STRICKLAND. Mr. Speaker, I support this motion to recommit because it provides added financial protections for veterans, military personnel and their families who are enduring financial hardships as a direct result of serving this country.

Additionally, this motion to recommit offers help to members of the Reserves and National Guard who all too often must leave behind their family jobs and businesses. It provides protection not just during service but also for the 2 years after service when our veterans make the transition back to civilian life. This measure will guarantee what the Servicemembers Relief Act does not. It will provide exemptions from the means test, financial assistance and time, something our servicemembers selflessly give to the Nation and something we should give to them.

The Servicemembers Civil Relief Act does not provide substantial bankruptcy protections. Rather, it provides a simple, temporary 90-day delay in bankruptcy proceedings once a servicemember is released from active duty.

□ 1500

Let us be clear. No bankruptcy safe harbor or exemption exists for our citizen soldiers under the Servicemembers Civil Relief Act currently. This motion is not an attempt to kill the bill. It is simply a reaction to a real problem that has been highlighted in countless news stories, by the National Military Families Association, Disabled Veterans of America, and individual servicemembers. These are people experiencing real and difficult financial situations. I support this motion to provide this narrow protection for those men and women who have served our country, and I urge my colleagues to do the same.

I thank my dear colleague for her efforts in this behalf.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, the motion to recommit creates a blanket exemption from the bill's needs-based test, and I do not think that that is necessary because it would exempt a wealthy debtor from the needs-based test solely based on the debtor's military service. People who fall behind the lines of the needs-based test will continue to have bankruptcy protection under chapter 7 as is provided in the current law. The bill also contains an exception from the needs-based test for disabled veterans who incurred indebtedness while on active duty.

CRS and even the New York Times recognized that the Servicemembers Civil Relief Act of 2003 provides a broad spectrum of protection to servicemembers, their spouses and their dependents; and the revised statute, according to the New York Times, is clearer and more protective than the old one. The Times also recognized that the news was apparently slow in reaching those who would have to interpret and enforce the law, which apparently includes the people who are offering this motion to recommit.

Let me summarize. Already there is in law, signed by President Bush in 2003, we have responded to the special financial burdens that members of the military may encounter. CRS has said the Servicemembers Civil Relief Act provides protection for servicemembers in the event their military service impedes their ability to meet financial obligations incurred before their entry into active military service, as well as during that service. There is a cap on the interest rates of 6 percent. It clarifies that the balance of interest for the period of the servicemember's military service is to be forgiven by the lender.

There are protections against evictions from rental property or foreclosures on mortgaged property. There are restrictions on cancellation of life insurance and more flexible options to allow servicemembers on active duty to terminate residential and automobile leases.

We do not need this motion to recommit. Congress has already passed a law that provides those types of protections. The motion to recommit should be defeated, and the bill should be passed.

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

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.

Ms. SCHAKOWSKY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 229, not voting 6, as follows:

[Roll No. 107]

YEAS—200

Abercrombie	Boren	Clay
Ackerman	Boswell	Cleaver
Allen	Boyd	Clyburn
Andrews	Brady (PA)	Conyers
Baca	Brown (OH)	Cooper
Baird	Brown, Corrine	Costa
Baldwin	Butterfield	Costello
Barrow	Capps	Cramer
Bean	Capuano	Crowley
Becerra	Cardin	Cuellar
Berman	Cardoza	Cummings
Berry	Carnahan	Davis (AL)
Bishop (GA)	Carson	Davis (CA)
Bishop (NY)	Case	Davis (FL)
Blumenauer	Chandler	Davis (IL)

Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berkley
Gillmor
Gutierrez
LaHood
Solis
Weldon (FL)

□ 1529

Messrs. TURNER, TANCREDO, CRENSHAW, and BRADLEY of New Hampshire changed their vote from ''yea'' to ''nay.''

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. RUSH, BOREN, and JOHNSON of Illinois changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 107 on motion to recommit with instructions (S. 256) I was unavoidably detained. Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore (Mr. PUTNAM). The question is on 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 302, nays 126, not voting 7, as follows:

[Roll No. 108]

YEAS—302

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—126

Abercrombie
Ackerman
Allen
Baldwin
Barrow
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle

Emanuel	Lowey	Sánchez, Linda T.
Engel	Lynch	Sanchez, Loretta
Eshoo	Maloney	Sanders
Evans	Markey	Schakowsky
Farr	Marshall	Schiff
Fattah	Matsui	Scott (VA)
Filner	McCollum (MN)	Serrano
Frank (MA)	McDermott	Sherman
Green, Gene	McGovern	Slaughter
Grijalva	McKinney	Smith (WA)
Hastings (FL)	McNulty	Snyder
Hinchey	Meehan	Stark
Holt	Millender-McDonald	Stupak
Honda	Miller (NC)	Thompson (MS)
Inslee	Miller, George	Tierney
Jackson (IL)	Moore (WI)	Towns
Jackson-Lee (TX)	Nadler	Udall (CO)
Johnson, E. B.	Napolitano	Udall (NM)
Jones (OH)	Neal (MA)	Van Hollen
Kanjorski	Oberstar	Velázquez
Kaptur	Obey	Visclosky
Kennedy (RI)	Olver	Wasserman Schultz
Kildee	Owens	Waters
Kilpatrick (MI)	Pallone	Watson
Kucinich	Pascrell	Watt
Langevin	Payne	Waxman
Larson (CT)	Pelosi	Weiner
Lee	Rangel	Wexler
Levin	Roybal-Allard	Woolsey
Lewis (GA)	Rush	
Lipinski	Ryan (OH)	
Lofgren, Zoe	Sabo	

NOT VOTING—7

Berkley	LaHood	Weldon (FL)
Gillmor	Lantos	
Gutierrez	Solis	

□ 1539

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 108 on final passage (S. 256) I was unavoidably detained. Had I been present, I would have voted "nay."

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER. Mr. Speaker, I know that our colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. DELAY), will be engaged in a colloquy in just a moment; and the announcement that I have will, I believe, relate to the colloquy that they are about to engage in.

Mr. Speaker, the Committee on Rules may meet next week to grant a rule which could limit the amendment process for floor consideration of the Energy Policy Act of 2005, which is expected to be introduced Monday, April 18, as H.R. 6. Any Member wishing to offer an amendment should submit 55 copies of the amendment, one written copy of a brief explanation of the amendment, and one electronic copy of the same to the Committee on Rules up in H–312 of the Capitol by 12 noon on Tuesday, April 19, 2005.

Members are advised that the combined text from the committees of jurisdiction should be available for their review on the committees' Web sites as well as on the Committee on Rules Web site by tomorrow, Friday, April 15. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to talk with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

Mr. Speaker, I would like to say, Go Nationals.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 2 p.m. for legislative business. We will consider several measures under the suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday and Thursday, the House will convene at 10 a.m. for legislative business. We will likely consider additional legislation under the suspension of the rules, as well as H.R. 6, the Energy Policy Act of 2005.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for informing us of that schedule.

Mr. Leader, tomorrow is a day on which the conference report on the budget is supposed to be adopted, as you well know. However, the House is yet to appoint conferees. When might we appoint conferees, given the fact that we are already behind schedule?

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, obviously we would have liked to have met the statutory deadline of April 15, but, unfortunately, we will not. I am advised that the Speaker has not yet decided when he would like to appoint the conferees to meet with the Senate, but it could occur as early as next week.

Hopefully, within the next few weeks we will have a conference report for the House to consider that provides for the extension of the pro-growth tax policies enacted in 2001 and 2003, reduces non-security discretionary spending, and provides for important reforms of entitlement programs.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman. Obviously he articulates reasons that he believes this bill is an important piece of legislation.

In light of the fact that the Speaker has not yet decided who he wants to appoint as conferees, does the gentleman have any thought as to when we might contemplate having the conference committee meet and then, of course, the conference report on the floor? I ask that from two perspectives: one, as the representative of the party who would like to know what is going on, as I am sure the gentleman would as well; and, secondly as an appropriator.

As the gentleman knows, until the conference committee report is adopted, it has the appropriations committees somewhat in limbo as it relates to allocations to the committees and then allowing us to make the 302(b) allocations.

Mr. Speaker, I yield further to my friend in terms of what expectations he might have as to timing from this point to when we might adopt a budget, in light of the fact it is my understanding from the staff of the gentleman from California (Mr. LEWIS) that there is hope that we will start to mark up bills sometime in mid-May. I do not know whether the majority leader has the same understanding or not.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman continuing to yield. The gentleman has touched on many points. I am advised, and I stand to be corrected, but having served on the Committee on Appropriations, the rules allow that once we pass the April 15 deadline for having a budget, the Committee on Appropriations is allowed to start their work without a budget.

I am advised also by the gentleman from California (Chairman LEWIS) of the Committee on Appropriations, who is walking in front of me right now and hopefully will correct me if I am wrong, that the gentleman from California (Chairman LEWIS) has begun the appropriations process in earnest and he has a very ambitious schedule. In fact, I am told that we will have the opportunity to schedule appropriations bills for the floor by the middle of May, and I anticipate, not anticipate, we have set as a schedule, another way of putting it, we have turned over the schedule to the Committee on Appropriations to get their work done. It will be a very ambitious appropriations schedule starting the middle of May.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I would be pleased to yield to my friend, the gentleman from California, the distinguished chairman of the Committee on Appropriations.

□ 1545

Mr. LEWIS of California. Mr. Speaker, I appreciate my Appropriations colleague yielding me a moment just to say that my colleague, the gentleman from Wisconsin (Mr. OBEY), and I have spent a lot of time together discussing these questions and the schedule and otherwise. The relationship is extremely positive, and I believe he and I this week, before the week is out, will have a chance to sit down and talk about 302(b)s, for example. We are going to move forward very expeditiously, and I think it will benefit, one more time, my colleague and I, who are Appropriations members together, and it will benefit our committee greatly.

I very much appreciate the gentleman yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the gentleman's observation.

My presumption is then, Mr. Chairman, before he leaves the floor, my presumption would be, for the Members of the House and also for the members of the Committee on Appropriations, that the Committee on Appropriations will proceed as if the House numbers were the numbers? Am I correct on that? I yield to the gentleman.

Mr. LEWIS of California. Mr. Speaker, we have come to the conclusion, by looking at some recent history, that we can, within pretty close margins, measure what our likely allocations will be. The subcommittees are proceeding as though there are numbers, recognizing full well that we will have to respond to the final budget package as they have given it to us and as we have talked between subcommittee chairmen, but we can pretty well guesstimate.

In the past, I believe that we have tended to delay our process because we decided we had to wait until the budget process was already complete, and we let supplementals interfere with that process, et cetera. So, in the past, we found ourselves sending our product to the other body just as we go past the end of the fiscal year, hardly giving them the time to do the kind of work that they would like to do, thus the omnibus, et cetera.

The cooperation between the two bodies, I must say to my colleague, is better than I could ever have imagined. It is a fabulous, growing relationship, and I think it will benefit both of the bodies.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

The gentleman's original question was when will we see a conference report for the budget come to the floor. I am hoping as soon as possible, obviously. I have no idea when the negotiations with the House and the Senate will start in earnest, when we will appoint the conference committee. There is very little difference, quite frankly, from the House bill and the Senate bill, and I would assume that the major issues will be taken care of in a matter of days, if not a couple of weeks.

So I would assume that we could have a conference report on a budget hopefully by the first of May. At least that is what we would like to see happen.

Mr. HOYER. Mr. Speaker, I thank the gentleman.

Reclaiming my time, the business that the gentleman from Texas has set forth for next week is the energy business. Given the schedule the gentleman has just announced, would the gentleman expect the bill to be on the floor both Wednesday and Thursday?

Mr. DELAY. Mr. Speaker, if the gentleman will yield, that is correct, both Wednesday and Thursday. This is a major, major piece of legislation, as the gentleman from Maryland knows. This bill has passed this House before. It required lengthy debate. It also required time to consider amendments, and we anticipate it taking all of Wednesday and most of Thursday to complete.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the leader.

Given the time that is allocated to this bill, I presume, as the Leader has apparently indicated, that it is the expectation of the Committee on Rules to have a full amendatory process. My expectation is you are not going to have a fully open rule but that you would have some modified open rule. Am I correct on that?

I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. Obviously, I cannot anticipate what the Committee on Rules may do on this bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, some of us do not believe that is quite as obvious as the gentleman does.

I yield back to the gentleman.

Mr. DELAY. I appreciate the gentleman yielding.

I do recall that in the last Congress when we approached the energy bill there was I think at least 20, if not more, amendments allowed on the bill. I would anticipate that the same approach, because the bill is very similar to the bill we passed in the last Congress, would be taken.

Mr. HOYER. Mr. Speaker, reclaiming my time, I appreciate the Leader's observation. I know that, on our side, we had a discussion on that bill this morning. All of us believe the energy bill is a very, very important piece of legislation. All of us are concerned about the gas prices that are confronting all of our constituents. I have a number of employees who commute significant distances. Although they live relatively close by, it is a 45-minute commute in traffic and a lot of gas, and they spend a lot of money on gasoline. In addition to that, energy independence, of course, is part of our national security. So we are hopeful that we will fashion a bill in a bipartisan way that we can see passed and signed by the President.

Mr. Speaker, the last item I would ask the Majority Leader about is, as the gentleman knows, the ethics process in the House is essentially at a standstill. The gentleman has made that observation, obviously; and we have made that observation as well. Efforts to move the ethics process forward have failed so far, both in committee and on the floor, when virtually all of the Members on the gentleman's side of the aisle, now twice, have voted to table motions that would have provided for the appointment of a bipartisan task force to make recommendations to restore public confidence in the ethics process.

As the gentleman knows, the gentleman from Maryland (Mr. CARDIN), he was sitting to my left here, although he is now to my right; maybe he is running for office and wants to position himself; but the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston performed an outstanding service for this House in coming together and adopting and presenting, proposing a bipartisan ethics process. We had that in place, as the gentleman knows, and it was changed, we believe, in a partisan fashion.

We oppose that change, as the gentleman knows, as does the former chairman of the Committee on Standards of Official Conduct, the gentleman from Colorado (Mr. HEFLEY). He and the gentleman from West Virginia (Mr. MOLLOHAN) have a bill, and that bipartisan resolution has now 207 cosponsors, and that would simply return the ethics rules to where they were, adopted bipartisanly, proposed bipartisanly by the Livingston-Cardin Committee, and it would return to a place where we believe the Committee on Standards of Official Conduct would not be at impasse.

We are also concerned about, as the gentleman knows, the chairman's proposition that we have a partisan division now of the ethics staff, which heretofore has been a bipartisan, I might even say nonpartisan, staff.

I would respectfully inquire, given that background, which the gentleman knows, of course, if and when we might see House Joint Resolution 131 on the floor. As I say, it has 207 cosponsors. It reflects the bipartisan agreement of the Livingston-Cardin committee and the bipartisan vote of this House some years ago in adopting the Livingston-Cardin option.

In the alternative, of course, when we might find an opportunity to support a bipartisan commission that could again look at this and try to get us off the dime.

I know I have mentioned a number of points, Mr. Leader, but I know that the gentleman believes it is important personally and institutionally. I have worked with the gentleman institutionally. We want to see this institution not mired in ethical questions of our side or of the gentleman's side. I think that either direction might get us there.

Mr. Speaker, I ask the Leader respectfully if he thinks that we might proceed in either direction, or perhaps both, and I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

This is a very, very important issue that upholds the integrity of the House, that has to do with the image of the House in making sure that the House can enforce its own rules in a bipartisan way. I would just remind the gentleman, with all the work that the gentleman from Maryland (Mr. CARDIN) and Mr. Livingston did, which is excellent work, unfortunately, we cannot anticipate unintended consequences;

and once we start implementing that wonderful work, we find out that there are some flaws that need to be corrected.

The Speaker of the House looked at the last few years and decided that the rules allowed the use of the Committee on Standards of Official Conduct for partisan purposes, and its ability to act in a bipartisan way was seriously hindered. Most importantly, there were some due-process issues to protect Members of their due-process rights.

I will give my colleagues one example. The committee, on its own, decided to change the way they operated from the past. In the past, when the committee wanted to warn a Member about certain actions that were not in violation of the rules, they used to send a private letter to that Member. This committee and the last committee had decided on their own that, without consulting with the affected Member, to send a public letter and release the underlying documents to support their position, without the opportunity for a Member to face the committee and discuss those letters of warning, the Speaker felt very strongly that that undermines the rights of every Member, both Democrat and Republican, to due process.

The Speaker, in his office, looked at the standing rules of the 108th Congress in this regard and felt that some minor changes needed to be made; one, to protect the committee from being politicized; and, two, to protect Members' rights of due process. That suggestion by the Speaker, as the gentleman knows, was brought to this House and debated extensively on this House floor, and those amendments to the rules were passed by the entire House, with some nay votes, I understand.

I think it is unfortunate that we have found ourselves in this position, particularly when the Speaker was trying to protect the rights of the Members and certainly, more importantly, protect the integrity of the institution that we have reached this point. I am advised through the Speaker that the chairman of the Committee on Standards of Official Conduct is working with his Ranking Member, and I would hope that they would come to some sort of agreement in how we get past this impasse. Otherwise, the rights of Members will not be protected, and I find that extremely unfortunate.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the Leader for his thoughtful response. We have a difference of view on the change that was made from the Livingston-Cardin and House-adopted ethics rules which provided for an investigation of any Member to go forward unless a majority of the committee disposed of it. That meant, as the gentleman knows, that it would have to be bipartisan, because the committee is equally divided, so we would have to have at least one other Member, assuming one party was united on either side, one other Member of the other party to join in the disposition of a case. And if that disposition did not occur, an investigation would go forward.

Unfortunately, it is our perception, I say to the gentleman, that what the Speaker, because the gentleman said the Speaker wanted to protect the Members, what the Speaker has done from our perspective and, we think, from the perspective of many is created a process where on the inaction of the committee, based upon a tie vote so that a partisan group can stop an investigation, that the investigation will thereby be dismissed. So it turned the process 180 degrees, from having a bipartisan vote to dismiss to now having a partisan vote or a bipartisan vote necessary to proceed.

We believe that undermines the protection of the institution. We believe that that was not necessary in order to protect individuals and Members, which we think is an appropriate due-process protection.

□ 1600

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will, but let me make one additional point. Every previous change that I know of, and you and I have been here about the same time. I have been here perhaps a couple of years longer than you. Every change that I know of in the ethics rules have been affected by a bipartisan agreement until this one. There were only a few votes, I think we were almost unanimous on our side, which is not unusual, which is why the ethics rules has historically been separate and apart, perhaps in the rules package, but agreed to in a bipartisan fashion. And that is my concern.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. And I will be glad to yield my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's concerns. The gentleman has raised two issues: one is process and one is substance. On the process side, the gentleman is correct. And the gentleman would have to ask the Speaker about the process of bringing the rules to the floor in a bipartisan way. And I do not want to second-guess the Speaker, and the gentleman may well have a good argument on process.

But in the substance, the gentleman is correct. And I hope all Members are watching this because they need to consider this very strongly, that the gentleman cannot have it both ways. The gentleman wants a bipartisan process. The Speaker was bringing a bipartisan process, which means that in order to proceed to an investigative subcommittee you would have to have a majority vote, which would be bipartisan, a bipartisan vote to proceed to the investigative committee.

What some partisans had found, that if there was no agreement and charges brought against a Member, the Member would be hung out to dry. There would be no action, or there could be automatic action without a majority vote of the committee. That is the problem. That is what allows people to use it for partisan politics is that if one side or the other decides to deadlock the ethics committee, then the Member that has been charged can be held out and held up for many days, if not months, before a resolution of that charge comes.

The Speaker came up with a way to make sure that the committee is bipartisan because it requires a bipartisan vote to move forward.

The gentleman is suggesting that he would like to change, for the House and the rights of the Members, something that is so different than the rules of procedures in courts of law. If a grand jury is deadlocked in an indictment, there is no process that goes forward. If there is a full jury in a trial that is deadlocked, there is no process that goes forward. It has to be clear, without a reasonable doubt, with no reasonable doubt that the offense is right and needs to proceed. And that is why the Speaker created a bipartisan process for that to proceed. And it can work for both sides politically. It can work for Democrats as well as Republicans. And that is why I say the Speaker was trying and worked very hard to protect the rights of the accused, and more important than that, the rights of each and every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank again the gentleman for his thoughtful remarks. We see it differently, Mr. Leader. What we have created is the ability of both sides to stop investigations in their tracks. Both sides. Our side, if we block up, and our five say you are not going to investigate STENY HOYER, they can do it. Formerly they could not do that. And I believe your analogy is not apt, and I want to tell you why I think so, Mr. Leader.

The investigation is the gathering of facts, not the charging, not the finding of involvement. We do not use the term ''guilt,'' but the finding of involvement. It is an investigation to gather the facts from which the decision-makers, whether it be a grand jury or a petit jury, whether it be a judge or whether it be a prosecutor who determines whether to bring an indictment. Once those decision-makers have the facts, they can then make a rational decision, we hope.

What we have done, however, in changing the rules, which were adopted in a bipartisan fashion, is to allow either side to preclude the investigator from gathering the facts. That is as if we could preclude the police or the FBI or others from gathering facts that they would then, in turn, submit to a decision-maker, whether a grand jury to bring an indictment, a prosecutor to bring a charge, a petit jury to bring a conviction. I think that is inaccurate

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. I certainly will yield to the leader, but before I do, do you see my point, Mr. Leader? Either one of us could protect ourselves. Either one of us, your side could protect yourselves by your five holding firm. Our side could protect ourselves by holding firm. That may protect us individually, but our position is it does not protect the institution, and that is what our concern is. I yield to my friend.

Mr. DELAY. If the gentleman will yield, the gentleman has made my point. Under the old rules, both sides could protect themselves.

Mr. HOYER. No, sir. Reclaiming my time, Mr. Leader.

Mr. DELAY. If the gentleman is not going to let me respond and interrupt me, then this colloquy can end.

Mr. HOYER. I want to apologize to the gentleman.

Mr. DELAY. Thank you. I appreciate that.

Mr. HOYER. I will yield back to him.

Mr. DELAY. As I was saying before I was interrupted, and I appreciate the gentleman yielding, the point is that both sides, in the old rules, both sides could shut the process down. The difference is, and it is a huge difference, the Members would be hanging out there and with no resolution.

And the gentleman is incorrect and misrepresents the process. The process starts with the ranking member and the chairman looking at the facts as presented to them by the person charging the Member. And then they decide whether to submit a recommendation to the full committee to proceed further and what action should be taken. So the facts the gentleman is talking about start with the ranking member and the chairman. Then a recommendation is submitted, just like a DA would submit a recommendation to a grand jury. And this is the grand jury process, to the committee, and the committee makes a decision whether they go forward.

Now, what happens in practice is, if that Member that has been charged receives from the committee that they are moving towards an investigative subcommittee, that is a huge hit on that Member, whether he is guilty or not. The press run with it and all kinds of things happen, as the gentleman perfectly knows. So that step to go to an investigative subcommittee is a very, very important step. And that is why the Speaker thought it was really important that a bipartisan vote be made in order to get to that step. It starts with his own ranking member making a decision, in concert, one vote to one vote, with the chairman, whether to submit the recommendation to the committee to proceed. And that is where the gentleman's concerns can be taken care of as to whether it is going to be blocked one way or another.

Then once they have made that recommendation, if they make a strong recommendation to proceed to an investigative subcommittee, I guarantee you, because you have a Republican chairman and a Democrat ranking member, the committee is going to follow their recommendation more times than not, and you will have a bipartisan, and in many cases, a unanimous vote to proceed to the next step.

The problem is, and it is a real problem that was used, where you come to a deadlock, then there is no resolution for the Member that has been charged. And the Speaker felt very strongly that that undermines the rights of every Member of this House.

Mr. HOYER. Mr. Speaker, reclaiming my time.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I will be glad to yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Speaker, let me thank the distinguished whip for yielding. And I have listened to this colloquy. And let me try to add a little bit to it, if I might.

First, I appreciate the leader's acknowledgment on process because the process is very important. I think the debate that we are having on the floor should have been had prior to the rule being brought under a very partisan environment for passage on the first day of session. I think if we would have had a chance, Democrats and Republicans, to review the rules changes, some of the problems that are now being brought out by these rules changes would have been understood.

So let me get to the policy issue that the leader brings up. And that is, yes, the chairman and ranking member can proceed to bring a matter before the full committee. But they do not have the investigative power in order to understand what is involved in the particular matter.

I served on the Ethics Committee for over 6 years, during some very difficult times, including the bank issues, including a charge against the Speaker of the House. And I can tell you this, that if we would have had a 45-day deadline considering an investigation of this matter, there would have been no way that we could have gotten the necessary votes to proceed.

In my entire time on the Ethics Committee we never had a partisan division. We always were able to work out our issues. It was not easy. It took time. We had to sit down and listen to each other, get the facts.

In reality, when you look at the rules that we are bound by and the facts, generally you will reach consensus and agreement within the Ethics Committee, and that is exactly what happens. But if the clock is running and there are only 45 days, and after that time there is an automatic dismissal, and that is what is in these rules now, it encourages a partisan division. It works counterintuitive to trying to work out what a consensus would bring out which is in the best interest of the institution. And I regret we did not have the opportunity to debate that during the process of the adoption of the rules.

It is interesting to point out that the investigation and the charges that were held against Speaker Gingrich brought about a lot of controversy on this floor. And the majority leader and the minority leader at that time recognized that the only way that we could resolve rules changes was to set up a bipartisan task force, and that is when Mr. Livingston and myself were the cochairs. And we listened to the debate. And due process for the Member was a very important consideration. And we did change the rules in order to provide for that, but we did it in a bipartisan deliberation, and that was missing this time. And I regret that.

Mr. DELAY. Will the gentleman yield?

Mr. HOYER. Mr. Speaker, I would reclaim my time and certainly yield to the leader.

Mr. DELAY. Mr. Speaker, I appreciate the comments by the gentleman who worked so hard on that bipartisan ethics reform taskforce that made recommendations to the House. And I appreciate that the gentleman is trying to protect those rules that he worked on.

But I remind the gentleman that when those rules were voted on, both gentlemen from Maryland voted against the rules they are trying to protect today. And then I might say your comments are well taken. The length of time is a problem. We have recognized that is a problem and I am told, I have not talked to the ethics chairman, but I am told through the Speaker that the ethics chairman has offered to negotiate the time problem with the ranking member. I do not know what the result of that has been, but I know that the Speaker has been informed by the chairman that he is more than willing to work on those issues, and I know the Speaker told me that he is open to fixing that time problem that the gentleman brings up and is concerned about.

Mr. CARDIN. Would the gentleman yield?

Mr. HOYER. Mr. Speaker, reclaiming my time, just for 1 minute.

Mr. CARDIN. Very briefly?

Mr. HOYER. Very briefly.

Mr. CARDIN. Let me just put out that when that issue was before the House, the former rules changes, we added a 180-day automatic dismissal that was rejected in a bipartisan vote by this body, just to point out to the distinguished leader.

Mr. DELAY. If the gentleman would yield, I appreciate that.

Mr. HOYER. I would be glad to yield to the leader.

Mr. DELAY. I yield back.

Mr. HOYER. Mr. Leader, we obviously have a disagreement in the perceptions as to what the rule does and does not do. I think both you and I are very concerned about the reputation and integrity of this House. I think you share that view and I share that view. It is my suggestion that resolving this in a way that is bipartisan will be productive for the House.

□ 1615

Mr. HEFLEY, the former chairman, I do not agree with Mr. HEFLEY on a lot of things, but I do agree with his perception of how we protect the integrity of the House. There may be people on my side of the aisle who agree with your perception and not mine. I understand that. The fact is, though, that it would be in the best interest of this House and this country for us to resolve these matters in a bipartisan way either through, as our leader has proposed, a commission to be a joint commission equally divided, as was the Livingston-Cardin commission, or, in the alternative, to consider H.R. 131.

The leader is absolutely right, and I made that aside, as you recall. We did vote against the rules package, but we had agreed to the components, and there was no controversy about the ethics component in the rules package. There were other things with which we disagreed, obviously, but that was an agreement, and it was reached in a bipartisan fashion.

This was not reached in a bipartisan fashion. And, yes, as both parties usually did, I can remember, it is getting more difficult to remember, but I can remember when we were in charge and your side used to vote unanimously against our rules package and we pretty much do the same because we have some disagreements. But there was agreement on the rules package as it related to the Committee on Standards of Official Conduct, and the reason for that is because both sides felt it to be very important.

Mr. DELAY. If the gentleman would yield.

I have to remind the gentleman, and I know going back to 1997 is very difficult, but this was not part of the rules package. This was voted on September 18, 1997, and it was on the recommendations for reforming the Committee on Standards of Official Conduct, and the gentleman that worked on the recommendation and the gentleman speaking voted against the recommendations, not on the House rules package.

My point, and I do not want to belabor that for the gentleman, I think it is very important that if the gentleman is protecting a package and a rules ethics reform that he voted against, I think that is one thing. But the other thing is we are working in a bipartisan way, I hope. The chairman and ranking member are dealing with this. A commission would just open up the whole recommendations that the gentleman from Maryland worked on and the gentleman from Louisiana worked on.

I do not think we need a complete overhaul of the ethics process, but there are certain problems that were found in practice that the Speaker felt needed to be done in order to protect the Members. And I have got to tell you, the Members on your side of the aisle as well as my side of the aisle better think about this very seriously because we do want to protect the integrity of the institution. But, as important as that is, we also want to protect the rights of the Members.

Mr. HOYER. Reclaiming my time, I think we both agree on that.

The gentleman from Maryland (Mr. CARDIN) wanted to say something, but I wanted to say you were right on the process. I was incorrect on the process. It was a separate vote on a separate package, and you are right that I and the gentleman from Maryland (Mr. CARDIN) and others voted against it. It was not on these provisions as you know because a change was made, not in a partisan sense, according to the gentleman from Maryland (Mr. CARDIN).

Mr. Speaker, I yield to the gentleman from Maryland (Mr. CARDIN) to explain his perception and recollection of the process.

Mr. CARDIN. Just to correct the record, and the leader is correct. We did vote against the package. The package was developed in a very bipartisan manner through the task force. There were some votes that took place on the floor of the House that were recommended against by the task force that changed some of the recommendations, and we had a motion to recommit to try to clarify that.

The gentleman is correct on the final vote, but the package itself was very much developed in a bipartisan manner through the task force in a way that it should have been done, contrary to the process that was used on this rules package.

Mr. HOYER. Reclaiming my time, Mr. Leader, I thank you for taking the time. I know you did not have to, and you have been considerate of this discussion because you and I know it is an important discussion. Because it is an important discussion, I would hope that we could move forward to try to get us off this impasse that we have for whatever reasons. And whatever is right or wrong, it needs to be resolved.

There are two suggestions here of how to resolve it. There may be other ways to resolve it. But I would hope that in the coming days we could move towards, in a bipartisan fashion, move towards resolving this issue.

ADJOURNMENT TO MONDAY, APRIL 18, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 19, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 18, 2005, that it adjourn to meet at 12:30 p.m. on Tuesday, April 19, 2005 for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO THE UNITED STATES COAST GUARD ACADEMY

The SPEAKER pro tempore. Pursuant to 14 USC 194(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Coast Guard Academy:

Mr. SIMMONS of Connecticut.

APPOINTMENT OF MEMBER TO THE BOARD OF VISITORS TO THE UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER pro tempore. Pursuant to 46 USC 1295b(h), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Merchant Marine Academy:

Mr. KING of New York.

APPOINTMENT OF MEMBERS TO THE BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

The SPEAKER pro tempore. Pursuant to 10 USC 4355(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Military Academy:

Mrs. KELLY of New York;

Mr. TAYLOR of North Carolina.

APPOINTMENT OF MEMBERS TO THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 USC 276h, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States Interparliamentary Group:

Mr. KOLBE of Arizona, Chairman;

Ms. HARRIS of Florida, Vice Chairman.

PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SEC. 1. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

''(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

''(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

''(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term 'qualified disaster mitigation payment' means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

''(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

''(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking ''a qualified disaster relief payment'' and inserting ''qualified disaster relief payments and qualified disaster mitigation payments''.

(B) Subsection (e) of section 139 of such Code is amended by striking ''and (f)'' and inserting '', (f), and (g)''.

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.''.

(c) EFFECTIVE DATE.—

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. CARDIN. Mr. Speaker, reserving the right to object, I do so not for the purposes of objecting but to give the gentleman from Florida (Mr. FOLEY) an opportunity to explain the legislation that is extremely important to people who have suffered disaster as a result of hurricanes in our country.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I appreciate the gentleman for yielding and certainly for his help in supporting this important measure.

Mr. Speaker, I am pleased to call up H.R. 1134, as amended by the other body, and with the bill's many supporters urge its adoption.

I remind my colleagues that the House passed this bill by voice vote 1 month ago. It was a bipartisan effort. We worked with the administration to develop a bill that makes disaster mitigation grants tax free. The bill also extended tax-free treatment to outstanding grants, as the administration's budget clearly provided for.

The amendment gilds the lily by making the relief in outstanding grants more explicit. During the past month, there has been some discussion in the other body of raising taxes and of adding unrelated tax breaks. I am pleased and thrilled that neither of those ideas was added to the bill and that this amendment is acceptable.

As I said when the bill was considered on this floor on March 14, H.R. 1134 will make disaster mitigation grants attractive to those we want to help avoid loss of life and property. These grants have saved Americans $2.9 billion in property losses during the past 15 years. Passing this bill today will clarify a difficult tax issue just in time, and I must underline just in time, for our April 15 filing and help those Americans who are even now struggling with their tax returns. And I hope all here will join me in passing the bill.

Of course, I thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), and the ranking member, the gentleman from New York (Mr. RANGEL), for their quick consideration of this important bill and, of course, the gentleman from Maryland (Mr. CARDIN), a member of the committee, for his excellent work on this as well.

Mr. COLE of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. COLE of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. It is very gracious of him.

Mr. Speaker, I come from a part of the country, Oklahoma, where disasters are not uncommon. Sometimes they are the awful man-made disasters of the Oklahoma City Bombing, something we will talk about next week, but more frequently they are the disasters associated with tornados.

In my home community in 1999 we had an F–5 tornado that destroyed in my community and the adjacent community 6,000 homes and killed 40 people. Four years later, another tornado, traveling almost in the identical path, destroyed another 500 homes and injured many people.

Each time we got superb help from the Federal Government and from FEMA, both in the immediate disaster and in the aftermath, to mitigate the consequences of future events of this type; and we were very, very grateful for that help as Americans.

It came then as an enormous surprise to the constituents that I represent years later that this help turned into potentially a taxable event. That is, there was talk at the Internal Revenue Service of going back, taking the grant and actually levying a tax on them years after they have been given.

I want to commend the gentleman from Florida (Mr. FOLEY), who has had similar circumstances dealing with hurricanes in his home State, for working with our delegation in Oklahoma on a bipartisan basis, the gentleman from Oklahoma (Mr. ISTOOK), the gentleman from Oklahoma (Mr. LUCAS), the gentleman from Oklahoma (Mr. SULLIVAN), the gentleman from Oklahoma (Mr. BOREN) and myself and for working across the aisle with our good friends who have this problem in common.

On this floor we sometimes do have partisan disagreements, but when the good of the country is at stake, it is amazing how often we do come together. And certainly we come together regardless of party to help people that have been hurt through no fault of their own in the course of disaster and to help them prepare so that those disasters never threaten their well-being again.

So I want to thank again my friend, the gentleman from Florida (Mr. FOLEY), for his outstanding work. I commend our colleagues in the Senate for working with him in getting this bill done just in time. Literally, I had a couple of town meetings last week when we were on break where I had constituents come and ask who had

benefited from these mitigation grants, would the taxation problem be taken care of? And at that time I could not actually assure that it would be.

A number of them filed extensions rather than turn their taxes in. They were not sure what their liability was going to be. If it were not for the action of the gentleman from Florida (Mr. FOLEY), if it were not for the action of the people on both sides of the aisle, if it were not for the action of the other body, they would potentially be facing a tax bill that they never anticipated.

Again, I want to thank the gentleman from Florida (Mr. FOLEY) for his extraordinary work in this regard. I want to tell him if he wants to run for office next time, come to Oklahoma. We remember our friends. And we appreciate very much his remarkable efforts.

I thank so much my good friend, the gentleman from Maryland (Mr. CARDIN).

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I certainly appreciate that invitation, but I am quite proud of serving Florida.

I think it is important to thank the gentleman from Louisiana (Mr. JINDAL) has been a prime sponsor, as have been Democrats and Republicans. That is one of the joys of the process when we actually get something done with bipartisan support.

I want to thank the staff on the Committee on Ways and Means but specifically Elizabeth Nicholson from my staff, my deputy chief of staff who has labored very long, hard hours on trying to get this to fruition. We are here on the floor and I am very excited and pleased that we will be able to provide this relief for our taxpayers. And, of course, the gentleman from Oklahoma (Mr. COLE) clearly stated without their help and the entire delegation that this effort would have been for naught.

□ 1630

So we appreciate all involvement and all support.

Mr. CARDIN. Mr. Speaker, further reserving the right to object, I want to just conclude by acknowledging the work of the gentleman from Florida (Mr. FOLEY). He really does deserve the credit for being persistent to get this legislation passed prior to April 15.

I also want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), our ranking member, for arranging this process.

It has been a pleasure to work with the gentleman. As the gentleman knows the problems we have had in Maryland with Hurricane Isabel and the hardship that that caused, I got to see firsthand the damage and devastation to families in my own State. This bill will help. It has been my pleasure to join my colleague from Florida in sponsoring and supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FORTENBERRY). Is there objection to the original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. 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. 1134, the bill just passed.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS AND THE JUDICIARY: RESTORING COMITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, 174 years ago, Supreme Court Justice John Marshall warned: ''The greatest scourge in angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary.''

Despite Marshall's warning, quite remarkably, nearly 200 years later the very independence of the judiciary, a matter so fundamental to our separation of powers, is still a matter of contention for some, particularly in this Congress.

For 2 years in a row now, Chief Justice Rehnquist has used his year-end report to highlight the deteriorating relationship between the judicial branch and the legislative branch, the result of a recent systematic congressional attack on the independence of the judiciary. Since I arrived in Congress, I have been quite surprised by the dreadful state of relations between our branches and the absence of the comity that historically existed between the two.

The Federal caseload continues to rise at a record pace, reaching new levels. Courthouse funding is woefully inadequate, failing to meet the needs of our Federal courts in order to carry out their mission and to make necessary improvements in priority areas such as court security. Judicial confirmations continue to be mired in political brinksmanship. Judicial compensation has not kept pace with inflation and congressional inaction on an annual basis has led to delays in important adjustments, despite the President's admonition for Congress to act.

The House Committee on the Judiciary, on which I sit, has initiated investigations of judges charged with judicial misconduct, matters that were previously left to circuit judicial councils, and the word ''impeachment'' has been used quite loosely and frequently as a threat.

A few weeks ago, these threats reached a fever pitch with talk, from the highest leadership levels of this body, of intentions to ''look at an unaccountable, arrogant, out-of-control judiciary that thumbed their nose at Congress and the President'' and a warning that ''the time will come for the men responsible for this to answer for their behavior, but not today.''

The Congress has also renewed its appetite for legislation that would strip the Federal courts of jurisdiction on a piecemeal basis from areas in which some are not pleased with the results that have been reached from the courts, or in areas where some are worried about potential outcomes down the road.

We have considered one bill which would remove Federal court jurisdiction over issues concerning the free exercise or the establishment of religion or over marriage. Should any Federal judge take up any issue involving that, the free exercise or the establishment of religion, he is subject to impeachment under the bill.

We had another proposal to remove jurisdiction of the courts over the Ten Commandments, another over the Pledge of Allegiance, and yet another to remove jurisdiction over any issue affecting the acknowledgement of God as the sovereign source of law. Again, the penalty for a judge who inquires or exercises jurisdiction is impeachment, removal from office.

Perhaps we should simply remove the jurisdiction of the Federal courts over the entire first amendment and be done with it.

After moving to strip jurisdiction, we recently moved to provide jurisdiction, where the Federal courts should not have it, in the Schiavo matter; and the only common denominator seems to be the desire to obtain the preferred result from the bench, regardless of the constitutionally enshrined principles of the separation of powers and of federalism itself.

Congress has not stopped here, but has pursued proposals to split appellate court jurisdiction and even considered legislation that would decide for the judiciary what they may look at or include in their judicial opinions.

Does anyone in Congress believe that we can undermine the courts without belittling the Congress itself?

Some Supreme Court rulings, such as the decision with regard to the sentencing guidelines, remind us that

sometimes there will be judicial decisions that we believe are poorly reasoned and others we just do not like. However, efforts by the Congress to force the courts to look at our transient wishes, rather than the Constitution, would only serve to undermine the very institution in which we serve.

As a Member of Congress with a strong interest in improving the relationship between the legislative and judicial branches, I have formed, with the gentlewoman from Illinois (Mrs. BIGGERT), a bipartisan congressional caucus dedicated to this goal. Our caucus consists of some 30 Members from both sides of the aisle, and I encourage my colleagues who share our goal to join our efforts to restore the historic comity between our two branches.

One hundred and seventy-four years ago, Mr. Speaker, Chief Justice Marshall warned of the great scourge of a dependent judiciary to be inflicted upon an ungrateful and sinning people. Let us not forget his wise admonition.

IN SUPPORT OF LIEUTENANT PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have spoken several times about Second Lieutenant Ilario Pantano, a Marine who served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and this country.

During his service in Iraq last year, Lieutenant Pantano was faced with a very difficult situation that caused him to make a split-second decision to defend his life. He felt threatened by the actions of two insurgents under his watch; and in an act of self-defense, he had to resort to force; 2½ months later, a sergeant under his command, who never saw the shooting, accused him of murder. Lieutenant Pantano now faces two counts of murder.

Mr. Speaker, what is happening to this young man is an injustice. Lieutenant Pantano has served this Nation with great honor. My personal experiences with him and his family convince me that he is a dedicated family man and a man who loves his corps and his country.

But I am not the only one who believes he is innocent. Yesterday, I read excerpts of pieces from the Washington Times and respected journalist Mona Charen defending Lieutenant Pantano.

I have received letters and e-mails from Vietnam veterans who sympathize with him and ask that I do something to help him. They know what it is like to be in battle with an unconventional enemy. One second can make the difference between life and death.

I have read excerpts from his combat fitness report in which his superiors praised his leadership and talent, even recommended him for promotion.

Mr. Speaker, Lieutenant Pantano was, by all accounts, an exceptional Marine.

Yesterday, Lieutenant Pantano and his attorneys waived his right to have an article 32 hearing and had decided that they want to go straight to trial. They are so convinced that he will be proven innocent that they want to speed the process along.

In a letter yesterday, Lieutenant Pantano's mother wrote: ''My son, our family, and millions of concerned citizens, Marines and soldiers were assured that the article 32 pretrial hearing would bring everything out in the wash, and we have been patient with a process that has been grueling for my son's family. The problem is that if the government is the machine and my son is the laundry, they are not adding any water.''

Thus far, the prosecution has not presented the witnesses and the evidence that they claim to have, and Lieutenant Pantano had no reason to believe that they would do so at the hearing. No such evidence appears to exist.

Mr. Speaker, I have put in a resolution, House Resolution 167, to support Lieutenant Pantano as he faces trial. I hope that my colleagues in the House will take some time to read my resolution, look into this situation for themselves. Lieutenant Pantano's mother also has a Web site that I encourage people to visit. The address is www.defendthedefenders.org.

Mr. Speaker, as I close, I ask the good Lord in heaven to please bless our men and women in uniform whether in Iraq or Afghanistan, to bless them and their families across this country, and also I ask the good Lord to please be with the family of Lieutenant Pantano and that I believe he will be exonerated, and he is a great man, a great Marine; and God bless America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to address the House and take the time of the gentleman from Ohio (Mr. BROWN).

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

There was no objection.

BANKRUPTCY REFORM LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the word ''bankrupt'' as we know it today comes from the 16th century Italian banca rotta, which literally means broken bench. It refers to a legend that said when a money trader became insolvent, the bench or table which he used in the market was literally broken. The Latin root of the word includes ''corrupt'' in the meaning.

The bankruptcy bill that the Republicans forced on the American people in this House today is as broken a bench and as corrupt a piece of legislation as I have seen in this House.

Republicans are providing nothing less than money tribute of, by and for credit card companies; and just like the tribute demanded by the corrupt leaders in ancient times, this money will be extracted from the American people, even if it means children will go hungry.

Do not let the Republicans mislead my colleagues for one money-grubbing, greed-pandering minute. The Republican bill threatens single mothers and children who rely on child support from a spouse who files for bankruptcy.

Credit card companies demanded, and the Republicans caved in, on a provision that says credit card debt will survive bankruptcy and compete on an even basis with kids and moms for the limited dollars left in bankruptcy. One of the Republican Members said, well, we have to do that. What if all the money went to the mothers and kids? Well, now, what kind of family values are those? They ought to go to the children and the mothers.

The Republicans shout family values, but they just sold the women and the children down the river. Single mothers and children will have to fight the credit card companies in court for whatever meager assets remain after bankruptcy. It will not be any just division. They will have to go in and arm wrestle with the credit card companies to make sure that they get food and shelter for their kids.

One credit card company television commercial says, ''Don't leave home without it.'' Maybe they can make a new commercial that says: You might not have home, or food, with it.

Protecting children is more important than satisfying the insatiable greed of credit card companies. Any person who supports this bill opposes our responsibility as a Congress and as a Nation to protect our most vulnerable population, the children.

The line must be drawn. The vote should have been the other way in this House, but the American people must know who is willing to feed corporate greed ahead of feeding vulnerable kids.

My distinguished colleague, the gentlewoman from New York (Mrs. MALONEY), had proposed an amendment which would ensure that the debtors make child support payments ahead of credit card payments. The Republicans would not even allow it to be heard in this House. They had their marching orders, and these orders come directly from the credit companies.

Banca rotta, the bench is corrupt, the bench is broken.

We are a Nation of laws, but we are also a Nation that legislates on a foundation of religious and spiritual values.

□ 1645

Nothing in Christianity or Judaism or Islam supports the concept of usury against the defenseless, but that is exactly what this corrupt, broken bench does: It pits women and children against credit card companies. Corporate lawyers will get their money regardless of whether women and children get their dinner. Shame on the credit card companies for demanding this, and shame on the Republican majority for caving in. Republicans are enslaving the American people to credit card companies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FORTENBERRY). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

ORDER OF BUSINESS

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

AMERICA NEEDS COMPREHENSIVE ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, tomorrow is April 15, an important day. It is tax day. Today, millions of Americans are in the process of filing their taxes. When all is said and done, many will get a refund from Uncle Sam. Hopefully, these refunds will not be needed to pay to fill up their gas tank.

At every town hall meeting I have held, the price of gasoline has been a significant issue. Last weekend when I was at home in my district, I saw gas costing $2.15 and $2.24 and even higher per gallon. The prices do not seem to be coming down any time soon.

If we had a comprehensive energy plan in place, we might not have seen these massive price increases. The time to act is now.

What are the facts? Well, since 2001, the average price of gasoline increased 86 percent, from $1.23 to $2.29 a gallon. U.S. imports of oil over that period of time have increased by more than 10 percent, and the price of a barrel of oil has more than doubled from just over $23 to over $50 a barrel today.

Many remember the early 1970s when we sat in lines to get our gasoline, and those lines often stretched for blocks and blocks. That gave us a lot of time to think, and most of us vowed that our Nation should never be dependent on foreign oil again.

Today, however, the sad truth is we are actually more dependent on foreign oil than we were then. So, as tax day arrives, let us be certain that we adopt an energy policy so comprehensive that future tax refunds will do more than just get spent on a tank of gas.

HONORING JOSIE GRAY BAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I rise to honor the life of Josie Gray Bain, a brilliant woman who was a dedicated wife, mother, and pioneer educator, who I had the distinct honor to work with closely when I served on the Los Angeles School Board.

Josie Gray Bain was born in Atlanta, Georgia, where she attended elementary and high school. Shortly after graduation from high school, she met and married Reverend John C. Bain of Los Angeles. In the fall of 1930, Josie Bain relocated to Spring Hill, Tennessee, where she and her husband began their first ministerial appointment. Their son, John David, was born soon thereafter. Both Josie and her husband enrolled at Drake University, where Josie received her B.S. degree with honors and continued to do graduate work there.

In 1942, Josie Bain moved with her husband to Los Angeles, California. She completed her graduate studies at California State College in Los Angeles, Immaculate Heart College, and the University of Southern California.

In 1948, she began her career in education with the Los Angeles Unified School District as an elementary schoolteacher at Marianna Avenue Elementary School. After teaching several years, she was promoted to positions of ever-increasing responsibility. Josie ended her brilliant career as Associate Superintendent of Instruction, the first African American in the history of the Los Angeles Unified School District to be appointed to the position.

Josie Bain was an active member of several professional and civic organizations, including Delta Kappa Gamma, Education Sorority; Delta Sigma Theta, Education Sorority; National Council of Negro Women; the Urban League; United Methodist Women; and the National Association for the Advancement of Colored People. She founded and served as president of the Interchange For Community Action, which provided scholarships for many disadvantaged minorities for more than two decades.

Josie Bain devoted her life to her family, God, community, and her church. She lived her life with style, grace, integrity, and vitality. Her dedication to helping children was recognized by all those whom she touched, and her accomplishments were evidenced by numerous awards and honors bestowed upon her throughout her life.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REAUTHORIZE AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today we introduced a bipartisan Amtrak reauthorization bill that will truly serve America's traveling public. I want to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Ohio (Mr. LATOURETTE), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for joining me in this effort. This is truly a bipartisan effort and shows the strong support Amtrak has within the Committee on Transportation and Infrastructure and the Congress.

The current funding issues concerning Amtrak brings up a fundamental question of where this Nation stands on public transportation. We have an opportunity to improve a system that serves our need for passenger rail service, or we can just let it fall apart and leave this country's travelers and businesses with absolutely no alternative form of public transportation.

Without the funding Amtrak needs to keep operational, we will soon see people that rely on Amtrak to get to work each day waiting for a train that is not coming. We continue to subsidize highways and aviation, but when it comes to passenger rail service we refuse to provide the money Amtrak needs to survive.

This issue is bigger than just transportation. This is about safety and national security. Not only should we be giving Amtrak the money it needs to continue to provide service, we should be providing security money to upgrade their tracks and improve safety and security measures in the entire rail system.

Once again, we see the Bush administration paying for its failed policy by cutting funds to public service and jeopardizing more American jobs. This administration sees nothing wrong with taking money from the hard-working Amtrak employees who work day and night to provide top-quality service to their passengers. These folks are trying to make a living for their families, and they do not deserve such

shabby treatment from this administration.

We spend $1 billion a week in Iraq, $4 billion a month, but this administration zeros out funding for Amtrak. Just one week's investment in Iraq would significantly improve passenger rail for the entire country for an entire year.

I just want someone to explain to the American public why investing in transportation in Iraq is so much more important than investing in passenger rail service right here in the U.S.

Mr. Speaker, it is time for this administration to step up to the plate and make a decision about Amtrak based on what is in the best interest for the traveling public, not what is best for the right ring or the Republican Party or the European counters over at OMB.

Today in America, we have 50 million people without health care. We have the highest trade deficit in the history of this country. We have a $477 billion Federal deficit. We have a $375 billion shortfall in transportation funding, and we still do not know what happened to the weapons of mass destruction or who at the White House outed one of the CIA agents. Yet this President's top priority is bankrupting Amtrak. I do not understand that.

I represent central Florida, which depends on tourists for its economic development; and we need people to be able to get to our State to enjoy it. Ever since September 11, more and more people are turning from the airlines to Amtrak, and they deserve safe and dependable services.

This is just one example of Amtrak's impact on my State. Amtrak runs four long-distance trains from Florida, employs 990 residents with wages totaling over $43 million, and purchased over $13 million in goods and services last year alone, and they are doing the same thing in every State they run in.

Some people think the solution to the problem is to privatize the system. If we privatize, we will see the same thing we saw when we deregulated the airline industry.

Shortly after 9/11, I was in New York when the plane leaving JFK Airport crashed immediately after takeoff. I, along with many of my colleagues in both the House and Senate, took Amtrak back to Washington. I realized once again just how important Amtrak is to the American people and how important it is for this Nation to have more than one form of transportation.

I encourage everyone that uses Amtrak to get to work or to travel to call their Congressman or Senator and let them know how important Amtrak is to them. This is not about fiscal policy. This is about providing a safe and reliable public transportation system that the citizens of this Nation need and deserve.

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 addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ENERGY POLICY DESPERATELY NEEDED

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, I heard a colleague just a few moments ago refer to tomorrow being the day that is known as the filing day for our taxes. Some might call it a rainy day in April. The gentleman is so right. It is the day that so many Americans are filing their returns and are hoping to pay for the governance of this Nation. Many Americans in this time frame are facing some very difficult times.

Mr. Speaker, I would like to put before this body a challenge that I think is enormously important. What do you say to Americans who are filing their tax forms and who are facing $2 plus and growing price per gallon on gas? This is an indistinguishable amount, meaning you can be a multi-billionaire or a person who is simply trying to make ends meet, keeping the doors open, paying the rent, providing for four or five members of their family, working in a blue collar or hourly job, and in order to get to a job across town, across county, or into the next State, we are asking Americans to pay $2 plus per gallon for gas.

Internationally, gasoline is quite high. The United States has always had the opportunity to experience a better quality of life. This is a hardship on Americans. And as the committee of jurisdiction has marked up energy legislation, I frankly believe it is not soon enough and it will not move soon enough. I think it is important for the President of the United States to announce an energy relief policy that deals specifically with the high price of gas for those who are now suffering under that burden.

I do not want to leave industry out. As I have traveled through the airports, I am delighted to see that the numbers have gone up after 9/11. But, frankly, representing Houston's Intercontinental Airport and the fourth largest city in the Nation, realizing the traveling public has many needs to travel by airplane, the cost of jet fuel is killing our airline industry. In fact, my hometown airline, their employees have taken an actual cut in salary so the airline can survive. But as they have done that, the jet fuel prices continue to go up and up and up.

□ 1700

Any legislation that we pass next week or the following week will not address that crisis, so I call upon the administration to acknowledge this as an economic crisis and establish some immediate relief, whether or not it is going into those petroleum reserves on a temporary basis, a 60-day basis, to bring some relief because there is going to be a point when those airlines that equate to a sizable proportion of our GNP are going to collapse under the burden of jet fuel cost; and there will be a time when whole communities, urban areas and rural areas, will have a population of employees who on an hourly basis are working and cannot afford to get to work.

That is why, Mr. Speaker, I rise today to talk about and to add to the discussion what I think was an unfortunate legislative initiative that was passed today. We all would hope to run away from bankruptcy. That is not the direction that the American people desire to go. I find the American people innovative, hardworking, desirous of a better quality of life, desirous of giving their children a better quality of life.

And so I am offended by a bankruptcy bill that suggests that we represent a bunch of ne'er-do-wells and those who are running away from their legitimate debts. That is what we did today. Frankly, we passed a bankruptcy bill, Mr. Speaker, that puts in place a provision that clearly is not needed. We have a bankruptcy code and a series of bankruptcy judges and each and every day they make a decision when a frivolous litigant comes through the door and looks in all the raging color, this is certainly a person who is just simply trying to avoid paying their debts, has the resources, and that person, if you will, is dismissed or their case is not allowed to proceed in the bankruptcy court.

Now, in the backdrop of a number of corporate filings of bankruptcy, my own constituent, Enron, that filed bankruptcy and put 4,000 people out of work, some of whom lost their lives because of the tragedy, when we allow all of these major corporations to file bankruptcy, now we are going to stand in the door of the courthouse and tell hardworking Americans and middle-class Americans, if you don't pass a litmus test, you get back out there and fall under the crunch and the concrete of your debts. If you have a medical emergency, if there is death in the family, if you have lost your job or if you happen to be active duty Reservists whose families have lost the income of that breadwinner, who now are in Iraq and Afghanistan not for 6 months but for 1 year or 2 years and some who are forced to re-enlist again because of the shortage of personnel, these individuals now will have to pass a means test in order to be able to file bankruptcy because they are burdened by the responsibilities that they cannot pay.

Mr. Speaker, we voted on a bankruptcy bill, and we defeated the motion to recommit that would help these Reservists. It is a shame on us and a shame on this House. Mr. President, I beg of you not to sign this bankruptcy bill until we take care of the active duty Reservists and National Guard. That is the least we can do for those who are offering their lives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PRICE of Georgia). The Chair reminds Members to address their remarks to the Chair.

APPOINTMENT OF HON. TOM PRICE OF GEORGIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 19, 2005

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 2005.

I hereby appoint the Honorable TOM PRICE to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 19, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

(Mr. DREIER 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 gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is once again a pleasure to address the House of Representatives and also to talk about a very important issue to all Americans, which is Social Security. I would also like to thank the Democratic leader for allowing the 30-something Working Group to come to the floor once again to talk about issues that are facing not only young Americans but Americans in general.

Through her leadership and through others that are in the Democratic Caucus, the Democratic whip, the gentleman from Maryland (Mr. HOYER); the chairman, the gentleman from New Jersey (Mr. MENENDEZ); and also the vice chairman, the gentleman from South Carolina (Mr. CLYBURN), we have been able to come to the floor to share facts, not fiction, to bring accuracy to the Social Security debate as it stands now.

First of all, Mr. Speaker, I would like to just share a few things as relates to Social Security. We encourage the Members to continue to keep an open mind. First of all, I want to commend Members on the Democratic side of the aisle for having so many town hall meetings, a number of town hall meetings, hundreds of town hall meetings in their own districts and that have traveled outside of their districts to share with Americans the truth about Social Security and how we protect Social Security and how we continue to have the benefit structure that so many, 48 million Americans, are celebrating now today.

I must also add that I would like to commend some of my Republican colleagues that have the courage to stand up to the forces of leadership, to say that they are willing to make sure that their constituents are able to celebrate and to be able to survive in a program that they have been promised that will be there for them in their time of retirement.

I would also like to thank those Members on both sides of the aisle who see the benefit of protecting Social Security, not coming up with a privatization scheme, not because someone said it is a way that we can be innovative, not subscribing to saying that there is some sort of Federal emergency as it relates to the protection of Social Security, not the fact that the President is flying around the country some 60 days burning Federal jet fuel at taxpayers' expense, higher than at any other time in the history of this country since Presidents have been flying, to persuade Americans that there is some Federal emergency. We will try to address that a little later. We are going to celebrate not only within the moment but within the future.

I want to just share a few things, Mr. Speaker, as it relates to how many Americans that are not only beneficiaries of Social Security but also Americans who look forward to benefiting from Social Security.

Social Security is the foundation of all retirement for the American worker. Like I mentioned earlier, 48 million Americans celebrate and take part in the benefits that Social Security has to provide. Retirees receiving Social Security benefits are 33 million. That is a great number of Americans that have served our country well. Seniors who live within the poverty line, 48 percent of those individuals, of the 48 million, receive those benefits. The average monthly benefit is $955. That is making ends meet for so many Americans, some 48 million Americans.

The size of the average benefit, like I mentioned, is $955; but the real issue is the fact that the benefits will be there for almost 50 years. Some may say 48, some may say 49, but for almost 50 years, the present benefit structure as we see it now for Social Security recipients, including those individuals that are receiving survivor benefits that I must add, Mr. Speaker, those survivor benefits is the legacy of the commitment that their parents made that have passed on, that have gone on to glory. The only thing that they were able to leave for their child are survivor benefits. And the benefits will be here until 2052; 2052, Mr. Speaker. That is not tomorrow. That is not next week. That is not even 2 years. 2052.

And so many of the individuals that are running around here saying that we need to call the fire department because Social Security is on fire are not really telling the truth. One may say that the administration has a plan or the majority side leadership has a plan for Social Security. That is also not true. One may say that the President, like I said, the administration, has a plan. That is not true. Is there posturing on the majority side about the fact that they are going to come up with a plan? Yes, there is some conversation going on, but Washington is known for conversation. There is nothing wrong with conversation as long as it is bipartisan. And that is not happening. Leadership is about a bipartisan dialogue to improve Social Security. So if it is going to be addressed in this Congress, for us to move in a productive way, we are going to have to work together. And there is no leadership from the majority side for us to work together.

Some may say, well, where is the Democratic plan? Well, I think the Democratic plan is celebrated by 48 million Americans today, not fiction, not something that may happen in the future; and in the 1980s it was a Democratic Congress that came together with Speaker Tip O'Neill and Ronald Reagan and saved Social Security. A supermajority of Democrats voted for it, and even the creation of it.

So when one starts to argue about, well, where is the Democratic plan, the Democratic plan is in the wallets of 48 million Americans. And those Americans that are walking around working now with a Social Security card can say, wow, I am glad we have Social Security in the way we have it. And for those retirees that take their card out with those digits on them, they can thank the leadership of the Democratic Congress when it was created and also the Democratic Congress that saved Social Security to make sure that every American can have the maximum amount of benefits possible to them to help that 48 percent of the 48 million Americans that without Social Security would be living in poverty, to help 33 million of those retirees that are now, this is fact, not fiction, able to receive Social Security because, let us say, for instance, in that 33 million Americans, I am sure, Mr. Speaker, a number of their companies have gone back on their commitment on retirement. But Social Security is there for them. For those individuals that have passed on and gone on to glory, they were able to leave legacy benefits for their children.

Let us talk a little bit about the private accounts, because I think it is important that we talk about the privatization scheme that some people in this

town have in store or would like to put forth to the American people. Before I get into that, I would also like to add, since we are talking about the positive points of Social Security, that Social Security is important to stabilize the American way of life. If we start having benefits cut back, especially in this era of no health care, I must add, one may want to talk about health care accounts or special savings accounts and all of those things that are talked about from time to time.

Forty-seven million Americans are working without health care. These are not individuals that are sitting at home cracking their toes, saying the job situation looks sad. These are individuals that go to work every day. So if we start getting along with our friends in Wall Street and saying we are going to have private accounts and we are going to shore up some more money for Wall Street, then that is a gamble that I am not willing to take.

On the majority side, they are talking about, we need to privatize these accounts. Let me tell you, it is going to make it harder for everyone to achieve financial security, and I do mean everyone. Not just Democrats, not just Republicans, not just independents, not just people of color, not just Asian Americans. Every American will suffer under it. The size of the benefit cuts proposed in the philosophy that the majority side has is 46 percent. The average reduction of benefits a retiree would see over their lifetime would be $152,000. The amount that Wall Street would profit from the private accounts would be $940 billion. That is the only real bright spot here for some. The issue as it relates to our risk as it relates to this risky plan for private accounts, $2 trillion. The amount of government tax on private accounts would be 80 percent.

If the Republican proposal to cut Social Security benefits were in place today, the average senior monthly benefit would be $516. This is very real, ladies and gentlemen. Remember, I said right now, as in the present, today. If we look at the clock right now, if we look at today's date right now, the average benefit is $955.

□ 1715

Under the proposed philosophy that the majority side has, it would be $516. That is not something to be proud of.

There are a lot of other things that were mentioned recently in the media, and we will talk a little bit about that. But as we start, as we continue to talk about the issue as it relates to the price tag of privatization, it is staggering. It is a lose-lose proposition, as presently presented, the philosophy that the President has. More than a 40 percent cut in benefits, adds nearly $5 trillion in additional debt over a 20-year period; 70 percent privatization tax, which on average takes back 70 cents on every dollar in private accounts. Some argue 80 percent. I mentioned this a minute a ago: $152,000 in benefit cuts for young people is based on the price index.

So I think it is important that we look at this, especially as Americans are forced to start thinking about this, something that is 50 years away of being a problem. And I must say, after 50 years, Mr. Speaker, 80 percent of the benefits that are now offered in Social Security will still be intact. In 2052, 2053, people will still be able to receive 80 percent of the benefits. So I am wondering, where is the fire?

I can tell the Members what is the fire right now, if we can use that as a metaphor, or the emergency. The emergency now is the fact that we have Americans working without health care. Emergency is the fact that we are not able to provide benefits to our veterans that are now paying more for health care that they were promised that would be free. Emergency is the fact that we have a Department of Homeland Security, that we are rated as an F as it relates to protecting our information technology. Those are true emergencies.

Emergency is the fact that we cannot protect our borders. Those are true emergencies. Emergency is the fact that we have local districts, local cities, counties and State governments that are suffering through the acts of this Congress in what we call devolution of taxation. We will cut taxes, but we are going to make them raise them on the local level. Those are emergencies. Those are right now pocketbook, wallet issues that are facing Americans right now.

I am glad the gentleman from Ohio (Mr. RYAN) joined me. I am starting to think that some people in this town may want us to say that something is an emergency, and it is actually not, while we are not looking at the ever-growing federal debt, the highest in the history of the republic; the fact that we are not looking at the fact that Americans do not have health care; the fact that we really do not have anything going on as it relates to making the dollar stronger; the fact that we do not want to address gas prices. Maybe this is the reason why we are spending all of this Federal jet fuel that the President is using flying around the country to try to persuade people to believe in a philosophy of privatization of Social Security when he himself has said privatization of Social Security alone will not save Social Security.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio, my good friend.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me.

I think he makes a great point, and I think the phrase that he has used in the past that is applicable to the Social Security debate is the ''Potomac two-step.'' They want us looking at Social Security over here and having this debate and flying around the country and talking about what needs fixing and a crisis that really does not exist, and we have numbers that say it does not exist, but we still want to have this debate over here.

Meanwhile, on this end, we are cutting Medicaid. Health care costs have gone up 50 percent over the last 5 years; education costs of college tuition up 36 percent. No one wants to talk about these issues. No one wants to talk about the fact that Youngstown city schools, the district that I represent, 85 percent of the kids who go to that school qualify for free and reduced lunch.

We do not want to have that debate. We want to have a manufactured debate. And I think the gentleman is exactly right. That is exactly what is happening here, and I think it becomes more and more important on us to fight this on a couple of different fronts. One is to make the argument that Social Security is solid up until 2041 and that we need to make some corrections maybe on a bipartisan way but make sure that the benefits are guaranteed, make sure that no American is going to get a reduction in their benefits, especially the 50 percent of the people who qualify for Social Security, in which Social Security lifts them out of poverty. So I think it is very important for us to broaden this debate over here and not just talk about Social Security but to talk about all these other issues.

One of the issues that I have been working on with Members of the other side, trying to somehow get the attention of the administration, is the issue of China, manipulating their currency up to 40 percent. We had a hearing today in the Committee on Armed Services.

Mr. MEEK of Florida. A joint hearing, I must add, Mr. Speaker.

Mr. RYAN of Ohio. A joint hearing with the Committee on International Relations and the Committee on Armed Services. I appreciate the gentleman's correcting me.

Mr. MEEK of Florida. I just want to make sure that we are factual, sir.

Mr. RYAN of Ohio. Constructive criticism. I appreciate that.

We had a discussion about the Europeans wanting to lift the arms embargo on China, which has been the Europeans cannot sell all these different types of military arms to the Chinese. The ban has been on since Tiananmen Square in 1989. Now the Europeans are saying we want to sell to the Chinese. So here we have this huge country that is growing at a rapid rate, and now we have even some of our allies wanting to sell arms to a rapidly growing Chinese government.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important that we realize the urgency of so many issues that are before us. And the issue as it relates to Social Security, as the majority side or as the administration would like for us Americans to see it, is that it is not rocket science. It is not a Federal emergency.

Forty-eight million Americans celebrate Social Security right now. Thirty-three million of those Americans would be living in poverty if it was not for it. We have a number of young people that are going to school solely on survivor benefits because their family members have moved on.

And I can tell the Members what is even further appalling is the President saying to the African American that I am pushing private accounts because African American males do not live as long as Anglos.

Mr. RYAN of Ohio. Unbelievable.

Mr. MEEK of Florida. In my opinion, Mr. Speaker, that is very wrong. But it goes to show us the desperation that some majority leaders on the majority side have to try to do this because they can.

But I can tell the gentleman the reason why we do not have a bill on this floor yet is not because we have staff or Members here that are lazy and do not want to write a bill. The reason why it is not here is that Americans are not with the administration and some Members of the majority side on messing with Social Security, especially as it comes down to private accounts on a risky scheme, because if not the number one, it is one of the main reasons why so many Americans appreciate this Federal Government, that we will keep our word, that we will stand by what we said we will do.

So when we start looking at these issues, the American people are not necessarily with the administration and some Members on the majority side as it relates to trying to change Social Security on a scheme of private accounts. That is why there is not a bill here. That is the reason why we hear some posturing here and there and an article saying we are going to start marking some up pretty soon.

I am going to tell the gentleman right now that discussion has been going on since 1978, and the reason why that discussion has been going on as it relates to private accounts since 1978 is the fact that the American people are not marching up and down the street saying, ''We want a reduction in our benefits; we want to gamble on our retirement.'' They are not saying that. What they are saying is that ''I have a Social Security card and guess what. When I reach the age I should be able to receive Social Security, I look forward to it. I want you to stand next to your word.''

So earlier I commended not only all of my Democratic colleagues but even some of the Members on the majority side that have the courage to stand up and say, I am here on behalf of my constituents, I am not here on behalf of myself, on being accepted by those who are trying to persuade them to do otherwise.

So when we start looking at it in a nutshell, Mr. Speaker, I am starting to believe more and more it is one of these things, look over here and think Social Security is Social Security. Meanwhile, we have the highest deficit in the history of the Republic. In Florida, that is a real issue; and I guarantee the reason why there are a number of Members of the Florida delegation that are not necessarily with the administration and the majority side and even some of those Members on the majority side are not with the majority side on the issue of privatization of Social Security, because eventually many of the gentleman from Ohio's constituents will be my constituents in the end in Florida.

Mr. RYAN of Ohio. If the gentleman would further yield, Mr. Speaker, the gentleman is absolutely right. Maybe one day I will even be his constituent, that one day I will move to Florida.

But I think the point that the gentleman from Florida brought up is the issue of the perennial budget deficits that we are having it seems every year in this Chamber, $400 to $500 billion a year, and I think when we talk in the 30-something group that we have established here, the reason we like to talk about and highlight the deficit is because long term that is going to have the most detrimental effect on members of the 30-something generation, 20-something, teenagers, born today.

We have huge numbers. Our debt is rising. Our deficit is going up and up and up every single year. And now to implement the Social Security plan, $5 trillion to implement the President's version of his privatization, $5 trillion over the next 20 years. We already have almost an $8 trillion national debt. Let me move this over.

Mr. MEEK of Florida. And those are as-of-today numbers.

Mr. RYAN of Ohio. These are today's numbers. And this clock is ticking by the second. But $7.7 trillion is the national debt today and ticking. Maybe we will be able to get the technology here where this will keep moving, $7.79 trillion national debt today.

And I think this is the most staggering number. Someone sitting at home watching this or sitting up in the gallery, their individual share of the national debt is $26,300. So if one is born today, welcome to being born in the United States of America, they have a $26,000 tag on their head.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I think it is important for the Members to understand and also for many Americans to understand that we did not just draw that number up in the back, that we were back there drinking a bottle of water, saying can we come up with a number that is a big number?

I know some of the Members are in their offices, and I think it is important that they know that national debt number as of today, and Americans and Members can go to the official Website of the U.S. Treasury. They have to go a couple of clicks, but I am going to share with the Members how they can get directly to that number and that ticker. Because if I am in the Treasury Department, I am going to have people go into two or three different clicks once they go to my home page and maybe, just maybe, they will get to the ticker because it is nothing that we can be proud of.

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Also, as it relates, we need to talk a little bit about those countries that have bought our debt and we are beholding to foreign countries. The gentleman does that better than me. But the Web site is www.ustreas.gov. That is the Department of Treasury Web site. Www.ustreas.gov. Or you can go directly to when you go on the page, because we are trying to share with the Members and educate the Members and make sure the American people understand exactly what is happening here, because it is not a badge of honor to be a Member of the 109th Congress and for history to reflect that we made the decisions to have the highest deficit in the history of the Republic. That is just not something that one can be proud of. But you can go if you want directly to www.house.gov/budget_democrats. That is www.house.gov/budget_democrats.

It is important, because our Democratic budget committee has really worked hard in making sure that we can pull this information out, that not only it should be useful to the Members on both sides of the aisle, but also to the American people.

Mr. RYAN of Ohio. If the gentleman will yield, I appreciate the gentleman sharing that information.

The real question is, we have to agree on this, and it is not a Democrat or Republican thing. This baby that is born with a $26,000 debt on their head, we do not know if that baby is a Democrat or a Republican. We have an obligation here for the next generation. And for many, many, many years our colleagues were standing in the well on that side talking about a balanced budget amendment, talking about fiscal discipline, talking about tax and spend. Now we are borrowing and spending.

This is worse. It is bad to tax and spend, and I do not think any of us advocate that. But to borrow and spend, because you are borrowing, you are spending and then you are paying interest on the money that you borrow, primarily from the Japanese and the Chinese banks. That is reckless. It is bad foreign policy, it is bad domestic policy, it is not conducive to providing opportunity for the next generation, your kids and the young kids that are coming up.

When you talk about funding health care, Medicare, Medicaid, education, tuition costs, Pell grants, No Child Left Behind, how are we going to compete with 1.3 billion Chinese, how are we going to compete with over 1 billion Indians in the next couple of decades, when we have kids, students, that are unhealthy and not getting the proper education that they need, and at the same time we are leaving this kind of burden on their backs?

Now, I have to excuse myself. I have a meeting I have to be at 3 minutes ago. But I want the gentleman to carry on here because this is important. I think the best thing we can do in our 30-something Caucus and our 30-something Working Group that our leader, the gentlewoman from California (Ms. PELOSI), has helped us establish, is talk about this, because if there is one thing I hope that I can say in my tenure in Congress and the gentleman's is that somehow we were able to fix this and make the kind of investments that the young students need and that they deserve and that will lead to the kind of opportunity that the gentleman and I have had.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, before the gentleman leaves for his meeting, that I am pretty sure is very, very important, the gentleman is going to have to not only give the information on the Web site, because we want to hear from Members, we want to hear from Americans, to make sure that we get the information from them on how they feel, especially as it relates to Social Security, the Federal deficit and other issues, because it is important that we share this, not only with young people.

We have the 30-something Working Group. But in our age range, I say to the gentleman, there are a number of young parents that are out there, and so many times here in Washington, people say, well, we are doing this for the future generation.

Well, the future generation has $26,000 in debt right now and climbing. So I do not know. I do not feel good about my daughter and my son having to worry about college and all these other things, and then worry about the Federal debt at the same time.

Mr. RYAN of Ohio. If the gentleman will yield further, exactly. When you add on it the $26,000 that you are born with that is going to keep accumulating every day, especially when we are running $500 billion annual deficits, and you add on to that, just picture the baby born today, and this clock ticking, 18 to 22 years out, say 22 years out, that number keeps going up and up and up, and maybe next week we will have the math and figure out what it will be based on inflation. And then add on to that college costs rising at the rate they have been over the past 4 years.

I know in Ohio alone they have doubled, and I think average college students graduates with a $20,000-some debt, and that is not even if they go after a masters or Ph.D. or law degree. It is about $22,000 for the average college student's debt.

So you take the 26, you add on the 22, now you are talking close to $50,000; and then project that out 22 years. So your baby born today, if you want them to go to college or get a masters degree or law degree or Ph.D., you are talking at least $100,000, if not hundreds of thousands of dollars in debt. That is not providing opportunity. At the same time, they are competing with billions, over 1 billion Chinese workers and over 1 billion Indians. So this is becoming very dangerous for the long-term prospects of our country.

If you want to e-mail us, 30something democrats @mail.house.gov. 30something democrats@mail.house.gov.

I have enjoyed this. I look forward to us coming back next week. I hope this in some way has broadened the discussion and deepened the discussion on the issues facing the country.

I yield back to my very good friend from Florida.

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman. I want to thank the gentleman for co-chairing this 30-something Working Group that consists of 16 or 18 Members on the Democratic side of Members of the House. We, like I said earlier, try to come together and share this information, not only with Members of the Congress on what is important to the American people, but also what is important to young people that are trying to raise their families and have a good future for their children.

I think that it is important once again to know that on the Democratic side when we start talking about Social Security or we start talking about Social Security reform, I think it is important that the American people understand that we want to strengthen Social Security without slashing the benefits that Americans have earned. I think that is important.

I think that when you start talking about what Americans have earned, I believe that is paramount in this debate. And I think when they earn something, I think we need to make sure that we stand by our promise.

Now, when we have a forecast for the present benefit structure that will for almost 50 years be in place, and then beyond those 50 years 80 percent of those benefits will be provided, I think that is standing next to our promise.

I think there are some things that we need to do to make sure that the Social Security trust fund is solvent for years to come. One is to stop deficit spending in such a large amount of money every Congress; every budget that is passed, deficit spending. The whole philosophy of pay-as-you-go is no longer a philosophy as it relates to the majority. It is putting it on the credit cards. It is saying it is okay for foreign countries to buy our debt. It is saying that we will forestall it off to future generations.

I do not believe that that is something that we should subscribe to. I think we should work hard in bringing the debt down and paying back into the Social Security trust fund. That will have us continue to provide the kind of benefits that we look forward to, that many Americans look forward to.

When the President starts off in saying it is going to be $5 trillion to put forth his philosophy, I think that is problematic at the beginning, saying we are going to save you money, but we are going to borrow money to help you save money. It sounds like the Potomac Two-Step once again. And so it is important that we realize the gravity of this situation, knowing that there are issues that are greater than an emerging problem in 50-some-odd years.

So it is important that we do as we always do as Americans, come together to save great programs and to be able to help our elderly and frail, to be able to help those individuals that have worked all their lives, the 48 million Americans I speak of that are already receiving Social Security benefits and that are counting on them.

So, Mr. Speaker, I look on the bright end of things as I start heading towards a close here. The 48 million Americans that are celebrating Social Security right now, that are receiving on average $550 a month right now, which we know as of today if the majority side and the President's philosophy was in force, because there is no plan, that those benefits would be $516. That is easy math. That makes a world of difference to someone that is on a fixed income.

We know that 33 million of those 48 million are retirees. So when the 30-something Working Group starts to look at priorities, we want to watch out for our parents, we want to watch out for our future and for our children's future.

So when we were here in the state of the union and the President started talking about, well, people over 55 do not worry about it, my proposal will not affect your benefits, are we promoting two Americas, or are we promoting unity? I am glad my mom did not call me up and say, Kendrick, guess what? I am okay. You are not. Good luck. That is not what Social Security is about. It is not the ''Kendrick Meek Report.'' This is what took place here in this Chamber, in the state of the union, with both Houses coming together at that time.

So it is important that we realize what is being said and what is being done. Forty-eight percent of those individuals, of the 48 million, would be living in poverty if it was not for Social Security. That is important to the 30-something Working Group, especially for those young professionals that the gentleman from Ohio (Mr. RYAN) talked about when they leave their higher educational experience on average $20,000 in debt.

For those individuals, I mean, I thank God for the ability to have had the opportunity to go to school on a football scholarship and I left college without being in debt. But, guess what? Everyone is not an athlete. Every student going to college did not go on a scholarship. Some people had to get a student loan. And even for those that went on scholarships that had parents that could not afford it, Mr. Speaker, the money that it takes to buy books and other things that scholarships do not provide, they leave college or a post-graduate degree $20,000 in debt.

So if we start messing around with the benefit structure under the privatization scheme, guess what? We are going to have to take care of our parents and our grandparents. We are going to have to subsidize their income. We do now, but it will be greater. So that is the reason why this is important, that the facts are put forth. Forty-seven years of solvency, the way Social Security is right now will continue.

So, Mr. Speaker, I look forward, as long as there are those that are in this Chamber and outside of this Chamber that are sharing with the Americans inaccurate information and saying that privatization is good and it is going to be a really nice thing for all Americans and we all should do it, the 30-something Working Group will continue to work not only with the Democratic leader, the gentlewoman from California (Ms. PELOSI), and the gentleman from Maryland (Mr. HOYER), who is our whip, and the gentleman from New Jersey (Mr. MENENDEZ), who is our chairman of the Democratic Caucus, and the gentleman from South Carolina (Mr. CLYBURN), who is our vice chair of the Democratic Caucus, and sharing accurate information with the American people and staying in the fight of informing them on the truth about what is happening right now; not what might happen, what is happening right now and what is going to happen for years to come.

□ 1745

Because, remember, I say to my colleagues, Social Security in the 1980s was saved by a Democratic House, working along with Ronald Reagan in the White House, doing what we had to do on behalf of individuals that were carrying Social Security cards to keep our promise to them. We did the right thing, and we will continue to do the right thing. But the right thing is not increasing the Federal debt, and it is not taking a gamble on private accounts.

So we will continue to share this information. I want to thank the Democratic leader for allowing the 30-something Working Group to have this hour. We look forward to being back next week, sharing good and accurate information, and the topic will be Social Security, with the Members of the House.

SOCIAL SECURITY AND U.S. ENERGY POLICY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, I appreciate the opportunity to be here on behalf of the Republican leadership in the House. It has been so interesting listening over the past hour as my colleagues from across the aisle have talked about various and sundry issues, as they have gotten around to talking about Social Security.

I am here to talk about energy tonight, but before I do that, I want to spend just a few moments and dispel some of the myths that we have been listening to for the last hour.

I think that possibly my colleagues do not intentionally mean to misrepresent the facts. I think, though, that they are just sadly misinformed many times and have a misunderstanding of some of the facts. I would like to, if I can, clarify a few of these, dispel a couple of myths.

We have heard that Social Security is fine until 2052. Then we have turned around and heard that benefits are going to be cut immediately, and that is of concern to me.

I think we all know that there is a date, 2018, and 2018 is the date when the Social Security system will stop running a surplus. Now, this is important to us, because it is at that point in time when those IOUs that the government has been writing, the Social Security system, the Social Security fund, those are going to come due in 2018. Now, 2042 is the date that the IOUs run out. The question for us to answer is this: what are we going to do? How are we going to pay it from 2018 until 2042.

My colleagues have come against the President for raising this issue. I would like to commend the President for having this discussion with the American people, for encouraging us to talk about how we go about addressing Social Security. It is important for those of us, the Members of the House elected from 435 districts around this great Nation, to decide what is going to be the best way to address Social Security.

With my constituents, we look at it as two tracks. One, the stabilization and solvency, how are we going to address this? The other we look at is the enhancements. That is where we begin talking about the personal accounts.

Mr. Speaker, one of my colleagues today has called it a privatization scheme, and I find that very sad. Because the money that men and women, each and every one of us, pay into Social Security is money we have earned, and that is something that we deserve to have, that our children deserve to have as a nest egg to build from as they get ready to retire. It is not a scheme. It is called working and earning a living and setting aside, and that is money that you have earned and you deserve to have, to be able to pass on to your heirs.

Personal accounts is your own personal lockbox to be certain that that money is going to be there at the time that you get ready to retire.

I have also heard them talk about we need to stop deficit spending. Well, lo and behold, I would just love it if they would join us as we as the majority try to work on deficit spending. But do my colleagues know what happens? Every single time we talk about reducing a program, every single time we talk about eliminating a program that has outlived its usefulness, every single time we talk about government efficiencies, what do they want to do? They want to grow the program. They do not want to cut a program.

Mr. Speaker, Ronald Reagan said the closest thing to eternal life on earth is a Federal Government program, and he was right. Because once you got it, it is so incredibly difficult to get rid of it. So I invite our colleagues from across the aisle to join us.

We passed a budget this year. We have done some great things this year, and I commend our Republican leadership for some of the steps that we have made, such as the budget. Our budget chairman, the gentleman from Iowa (Mr. NUSSLE), did a great job working with the committee bringing forward a budget that has a reduction in nondiscretionary, nonhomeland security defense spending. Many of our colleagues wanted to vote against that and did vote against that, because it was not spending enough.

Mr. Speaker, you cannot have it both ways. You cannot have it both ways. So we invite our colleagues to work with us to get the spending down.

We also want to be certain that we take a look at some of the things that need to be addressed as we talk about Social Security, as we talk about the future, as we talk about education for our children, as we talk about opportunity. One of my colleagues said they went to college on a scholarship and talked about scholarship and loans and ways to get through college. A lot of us did like me: worked, worked hard, worked hard selling books door to door to get through college. And for many, many American men and women and young people today, they are working and they are striving to get that education so that they can enjoy hope, opportunity, and benefits of this great Nation, so they can build a nest egg and have a great retirement and a solid future, not only for them but for their children and for their grandchildren.

So we invite our colleagues from across the aisle to join with us to reduce this spending and to address the solvency of the Social Security system, to join with us as we talk about passing a budget that is going to reduce spending, cut the deficit in half in 5 years.

One of the reasons we are here talking about this deficit, and Mr. Speaker, I just cannot let this go by, they say you have to cut it, you have to stop spending. We have this national debt.

Do my colleagues know how we got here? We got here because of 40 years, 40 years of Democrat control, Democrat spending, programs that were growing and growing and growing and were not being called into accountability; 40 years of just taking that credit card and running those numbers off, swiping them away, run it up, run it up, run it up. Pass that debt on. Let

future generations worry about it. Live for today. Enjoy it. It is the Federal Government's money. Spend it all before you get to the end of the year.

I commend our Republican leadership here in the House: our Speaker, the gentleman from Illinois (Mr. HASTERT); our leader, the gentleman from Texas (Mr. DELAY); our whip, the gentleman from Missouri (Mr. BLUNT); our conference chair, the gentlewoman from North Carolina (Ms. PRYCE); and I commend the President and our administration for working with us to say, let us begin to turn this ship around. We did not get here overnight. We did not. And we are working diligently every single day to turn this around. I think we are seeing great success.

As I mentioned a moment earlier, we have had a busy agenda. Despite what my colleagues from across the aisle would like to say, we have had a busy agenda this year. We have gotten a few good things done. We have passed class action reform, which has been a long time in coming. Greedy lawyers, greedy trial lawyers have just had their way too often for too many years with the American court system.

As I said, we have passed a budget that puts us on the path to fiscal responsibility. It is not going to be done overnight. It is not going to be done today or tomorrow. It is going to take us some time.

We are having a national discussion on the issue of Social Security. Yesterday, we passed a permanent repeal of the death tax, which is a triple tax on many farmers, on many small businesses in my district in Tennessee. Today, we passed bankruptcy reform.

All of these are steps in the right direction. They are good things. At the same time, we have been talking about reducing taxes and cutting spending. We have to have that discussion one with the other. You cannot leave it unattended.

At my town halls over the past couple of weeks, we have heard a lot about Social Security. We have heard a lot about immigration, also; and, Mr. Speaker, I hope that at some point we will be able to come back to the floor and address that. But we are also hearing about energy and about the price.

One of my colleagues earlier this afternoon said, we need immediate relief from $2 a gallon plus gas, and we need to do something right now. There is something that we can do, and it is called passing an energy bill, because it is a step in the right direction; and there are few issues that are more central to our economy and to our national security than energy and having a good, solid energy policy. There truly is no single American whose livelihood, whose standard of living, whose security as a citizen of this great Nation does not depend on our access to a stable and abundant energy supply.

Now one would think, given the absolute critical nature of this issue, that we would have been able to easily pass a national energy policy bill several years ago, but, Mr. Speaker, that has not been the case. I commend our chairman, the gentleman from Texas (Chairman BARTON), for the great work he has done on this issue this year.

We are going to hear over the next week as we bring this bill to the floor that, oh, my goodness, it was passed in haste. Well, let me tell my colleagues what. We started a hearing on April 6 with opening statements. We finished in committee last night, which was April 13. And I would remind my colleagues that during the 107th Congress, from 2001 to 2002, the Republican-led Committee on Energy and Commerce held 28 hearings related to the comprehensive national energy bill. Mr. Speaker, in 2002, the Committee on Energy and Commerce spent 21 hours marking up an energy bill and considering 79 amendments. In 2003, they spent 22 total hours and 80 amendments. In 3 years, House Republicans have held 80 public hearings, with 12 committee markups and 279 amendments. Senate Republicans have held 37 public hearings and 8 markups.

What is the common theme here?

The common theme is that conservatives keep pushing for reform, and conservatives keep pushing for a national energy policy. We get it. Republicans in Congress have dedicated hundreds, if not thousands, of hours over the past several years making energy policy for this Nation a priority. During the 107th Congress, we proposed the Securing America's Future Energy Act. In the 108th Congress, it was called the Energy Policy Act of 2003. And while many across the aisle opposed this effort, we are not giving up.

This week at the Committee on Energy and Commerce we met for nearly 28 hours and considered almost 70 amendments. Thanks to the leadership of the gentleman from Texas (Chairman BARTON), we were able to pass this bill out of committee; and it is a tremendous step toward a goal of national energy policy. It is a big step toward having a national energy bill, and I do commend all of my colleagues on the Committee on Energy and Commerce and our chairman for their diligent work and tremendous efforts.

Time and again, we face Democrats in the House and the Senate who put their pet projects over this matter of national security and economic security, this energy bill. Mr. Speaker, part of the hold-up on this issue has been a group of extremely liberal ideologues who think we should require half the Nation to give up their cars and bike to work. They have made every attempt to halt progress on this bill because the bill will help open new domestic sources of oil, domestic oil that will ease some of our reliance on foreign sources.

I want to say that one more time, to be certain that everyone gets that. They have opposed it because this bill will help open new domestic sources of oil, domestic oil that will help ease our reliance on foreign sources.

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And that must be a priority. And I agree there has to be a balance between efforts to develop alternative energy sources, but that cannot come at the expense of our current need for access to oil and gas supplies. And I believe the bill that the gentleman from Texas (Chairman BARTON) has put together meets all these needs, and it should have the support of every single Member of this body.

I would like to spend a few moments with this poster right now and go through some of the things that we have covered in our Energy Committee this week and things that the American people and the Members of this House are going to become very familiar with over the next week as we look at energy policy.

At the top we have got a quote from our chairman, the gentleman from Texas (Mr. BARTON), who said, I agree with our President, 4 years is long enough for an energy bill. That is how long we have been working on this. And for individuals who will say we have not spent enough time on it, I do not think there is ever going to be enough time spent on it. And the reason for that is this, because they are just not getting everything they want; and so therefore, they are going to try to keep the bill from moving forward. Four years is enough.

The Energy Policy Act of 2005, this is what you are going to find in that bill. It improves our Nation's electricity transmission capability and reliability.

Mr. Speaker, this Nation has suffered a series of blackouts over the past decade. All of us remember the August 2003 blackout that affected the Northeast. And that is what we are trying to prevent with this legislation.

We are providing incentives for transmission grid improvement and for strengthening reliability standards. It is important to do that. It is important to be proactive, to provide those incentives for the grid improvements. This is about providing the resources our economy needs so that it can grow and about protecting ourselves from future blackouts.

We have heard some discussion today about needing jobs, needing to grow the economy. One of the ways we can do that is having a stable, safe, secure, dependable energy supply. One way we can do that is by reducing our reliance on foreign oil sources.

Number two, the bill will also encourage development of new fuels, of hydrogen fuel cell cars, and give State and local governments access to grants that will support acquisition of alternative-fueled vehicles. And that program with the alternative-fueled vehicles is the Clean Cities program. This is something that will provide those communities that are dealing with transportation the opportunity to look at alternative-fueled vehicles. We are going to see some of these alternative fuels come about. It is important to Tennessee, my State. It is important to others.

We are hearing a lot about biodiesel, about ethanol, about the hybrids that some of the auto manufacturers are producing. And of course in Tennessee we have a Nissan plant. We have a Saturn plant, and we know that research and development and new design for hydrogen cell cars is there. It is on the drawing board. We need to do what we can do to encourage that. This bill will do that.

Number three, we have also made sure this effort does not ignore clean coal technology, renewable energies like biomass, wind and solar hydroelectricity.

Number four, the Federal Government is going to help lead the effort in energy conservation through this legislation by requiring Federal buildings to comply with efficiency standards. We can help set the example, and we should be setting the example, and we are going to do that with this piece of legislation.

We are targeting those high utility bills. When it comes to liquefied natural gas, we are clarifying the government's role in the process of choosing sites for natural gas facilities. By streamlining the approval process for this important energy sector's facility construction, we can provide some stability to those large segments of our country that depend on natural gas for fuel.

Mr. Speaker, every American knows our country is dependent on oil. It is essential to our economy. By increasing oil and gas exploration and development on nonpark Federal lands, and by authorizing the expansion of the strategic petroleum reserves capacity to a billion barrels, we are doing everything we can to meet our domestic demand and to protect ourselves from future shortages.

Both nuclear and hydropower have a significant role in providing energy for millions of Americans, and our legislation will allow the Department of Energy to accelerate programs for the production and supply of electricity and set the stage for construction of new nuclear plants and improving current procedures for hydroelectric project licensing, looking to the future, and looking to the nuclear and the hydropower and the role that they will supply.

Mr. Speaker, all of this is good for our economy, and it is good for our national security. We know that. We know it is important that we continue to have a ready energy supply for manufacturing.

One of my colleagues earlier today was talking about, my goodness, you know, China, and dealing with China and the currency there, it concerns us. It concerns us when we see jobs leave. It concerns everyone. And one of the ways that we make sure manufacturing continues to grow as it has done over the past 2 years, and I will remind my colleagues this past quarter we had the best manufacturing numbers we have had in this country in about 2 decades. We give this Republican leadership in the House and the Senate and the Republican leadership and the administration a little bit of credit for working to create the environment that the private sector needed to do what, go create jobs, two million new jobs, and also, to increase the productivity and the output in manufacturing and also, as that has happened, to increase the capital investment. It will become a little bit better, a little bit more affordable for the private sector to create those jobs and to increase that manufacturing output when we have a stable, a dependable, an affordable energy supply. And that is one of the things that the Energy Policy Act of 2005 will help to do.

Now, I heard one of our colleagues earlier talking about the gas shortages of the 1970s. And I think that many of us can remember those. And everyone who does agrees that economic security and national security, when it comes to energy, certainly go hand in hand. And for those across the aisle, many, like the minority leader across the aisle, who have worked against our effort to secure America's energy sources, I hope that now, after the Republican leadership has made the case for this bill and legislation, and after 4 years, 4 full years of work, that they will join us, that they will vote for and support this legislation.

And if the liberal leadership in Congress does not really see the light on this issue, let me help to clarify this. I would like to show our second chart.

Mr. Speaker, this is where we have been over the past two Congresses, the 107th, the 108th, and the 109th Congress. On the left, you will see that you have the Congress and the energy legislation that the Republicans tried to pass, but were unable to get through because of Democrat opposition.

And on the right you have the national average prices of a gallon of regular unleaded gasoline for the second week of April each year that this legislation was going through the floor, and each time the Democrat leadership was fighting passage of an energy bill. And I hope that the individuals that are watching are going to see a trend here, because we have had a lot of inaction since the 107th Congress. And with that inaction, guess what has happened? Higher prices. Democrat obstructionism means a bigger bill at the pump. And for my colleagues that earlier today were saying you have got to do something, gas is over $2 a gallon, well here is the something to do. It is called vote ''yes'' on the energy bill. Let us move this process along. There are Members that have been obstructionists for too, too long. Let us vote ''yes'' and let us move the process along.

Now, during the 107th Congress, in 2001 and 2002, we pushed a comprehensive energy bill. And at that time the gas prices averaged $1.46 a gallon. During the 108th Congress, in 2003 and 2004, Republicans in the House were again supporting a national energy policy. Gas prices had increased by an average of 20 cents, and they were at $1.69 a gallon.

Mr. Speaker, now the 109th Congress, we are facing $2.28 a gallon. My question is, how can the Democrats continue to say no? They need to join us and show some support for the energy bill.

This bill is a bill about options. It is a bill about options for today, more affordable oil and gas. It is about options for the future as we look at research and development, as we look at new technologies. And it is important for our Nation's economy and for our Nation's security that we move this along.

So I hope that next week, as we take up the national energy policy act on the floor of the House, that Democrats will enthusiastically and finally join Republicans in passing this legislation. Time for inaction has long passed.

Mr. Speaker, I think it is time we passed this bill next week and that we answer that question that some of our constituents are asking: What are you going to do about it? We are going to do what we have been trying to do for 4 years. We are going to pass an energy bill.

We hope that the Democrats across the aisle will join us in passing this bill, helping to secure our Nation's energy supply and helping us plan for the future.

VICTIMS OF CRIME ACT

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. POE) is recognized for 60 minutes.

Mr. POE. Mr. Speaker, I rise today to speak for a group that live in the silent storm of stressful sadness. They live with the vicious wounds of being a victim of crime in America. To be a victim, to be chosen to be the prey by a predator, to have a life stolen or broken by criminal conduct, Mr. Speaker, it is a terrible and tragic travesty. But to have your own government desert you, abandon you, too, is an injustice. It is an injustice to the injured, to the innocent, to the victims.

Mr. Speaker, the Victims of Crime Act, VOCA, the VOCA fund was created in 1984 by President Ronald Reagan to provide the most consistent stable source of funding for services to crime victims. It included counseling, victim advocacy programs, safety planning, State victim compensation funds that would help crime victims recover the costs associated with being a victim. Yet the current budget proposes to rescind the over $1.2 billion presently in this fund and redirect its resources to the Department of the Treasury, where it will be treated in the general revenue. It would go to the greater business of the general fund.

Mr. Speaker, VOCA funds, these funds that we are talking about, are

not derived from taxpayers paying dollars to the Treasury of the United States. But these funds come from fines and forfeitures and fees paid by convicted Federal offenders. This is an offender's accountability for the harm they have caused when they committed the crimes against citizens. It is a wonderful, successful idea. It makes outlaws pay for the damage they have caused; makes them pay for the system that they have created. It makes them financially pay the victims for these crimes.

In fact, there are over 4,400 programs that provide vital victim assistance services to nearly 4 million victims a year because of these funds that are contributed by criminals.

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Half of these victims receiving these services are victims of domestic violence. Other victims are victims of sexual assaults, child abuse, drunk driving, elder abuse, robbery, assault, and old-fashioned stealing. They receive this type of assistance through shelters and rape crisis centers, child abuse treatment programs. Prosecutors' offices received help, law enforcement agencies and victim advocates. All of these agencies received funds paid into this fund by criminals.

State crime victims compensation funds with VOCA funds help crime victims to pay for out-of-pocket expenses that they incurred while the criminal committed a crime against them. These expenses include medical care, counseling, lost wages, funeral costs, and many, many more.

You see, when a crime occurs, the victim has no recourse financially against a criminal, even though the criminal may be convicted and sent to our Federal penitentiaries. Criminals just do not have any money. So victims are compensated through this fund through fees paid by other criminals.

Many victims, when they suffer criminal conduct against them, have no insurance. This is what they look to to save their livelihood and their lives. Without victims' compensation funds in the United States, funded by VOCA programs, paid by the defendants, victims have two choices, live without this aid or ask taxpayers to pay in some form of taxation what defendants are now paying for and what defendants should pay for in the future.

Mr. Speaker, as the founder of the Victims Rights Caucus along with the gentlewoman from Florida (Ms. HARRIS) and on the other side of the aisle the gentleman from California (Mr. COSTA), all of us are united in this decision that reducing VOCA funding is an injustice to the people of the United States, the good people, the people who never asked to be victims of crime but yet they were chosen by some criminal to be a victim.

It is ironic, Mr. Speaker, this is Victims Rights Week, the week that we proclaim in the United States the worth and value of victims, and yet it is the week that the budget is considering to reduce these funds, take these funds donated by criminals and put it in the general fund. How ironic this is.

Mr. Speaker, in all of my career I have been involved in the political process, I have been involved in the justice system. First in the District Attorneys Office where I served as a chief felony prosecutor in Houston, Texas, for about 8 years and then a judge in Texas for 22 years where I saw 25,000, 25,000 defendants come to court charged with crimes against an equal number of victims. And during all of that time I have witnessed in the United States the victims' movement, how victims have been treated in the system. And sometimes we have forgotten as a people in 2005 how victims have been treated over the past.

Things have not always been as good for victims after the crime as it is now; and I think a history lesson is due, Mr. Speaker.

I tried numerous cases as a prosecutor, numerous defendants, death penalty cases, but I would like to talk about one person who really showed me the way of how victims continue to be victims after the crime was committed. And I have changed her name because her family still lives in Houston, Texas.

Back in the late seventies there was a young lady who was married and had a couple of sons that lived in Houston, Texas. She worked in the daytime. At night, she went to school working on a masters degree at one of our universities.

She left the school one evening. Her name was Lisa. And she was driving down one of our freeways and she had car trouble so she exited the freeway, Mr. Speaker, came into a gas station that she thought was open. It was not open. It was closed, but she did not know that. And she got out of the vehicle and started talking to an individual that she thought was a service station attendant.

Luke Johnson was not the service station attendant. He was just hanging around. One thing led to another, and Luke Johnson pulled out a pistol. He kidnapped Lisa, took her and her vehicle to a remote area of East Texas that we call the Piney Woods. He sexually assaulted her and pistol-whipped her. In fact, he beat her so bad that he thought he had killed her. Later, when he was arrested, he was mad that he had not killed her.

Lisa was a remarkable woman. She survived that brutal attack. She was found about 2 days after she was abandoned in the woods by a hunter that was going through that area. He stopped, rescued her and made sure that her medical needs were met.

After she recovered from this vicious attack, Luke Johnson was arrested and charged with aggravated rape. I prosecuted him for this conduct. A jury of 12 citizens in Houston, Texas, heard the case, heard Lisa testify in this case. Luke Johnson was convicted and received the maximum sentence of 99 years in the Texas State penitentiary as he earned and as he deserved.

Now we would have hoped as a people, as a culture that justice would have been done, that we would go on, that life would be good, but that is not, Mr. Speaker, the world that we live in. Because we live in a world far different from that.

As Luke Johnson is shipped off to the penitentiary where he belonged, Lisa could not quite cope with that crime. The first thing that happened was she never went back to school, never wanted to go on that campus again. The next thing that occurred was she lost her job. In fact, she was fired. She could not focus, and she bounced around from job to job. She started abusing drugs, first alcohol and then everything else.

Her husband, the sort that he was, decided he no longer wanted her. He sued her for divorce, convinced a judge in Texas that she was not mentally capable of raising those children that she had, and he got custody of both of them. He moved out of the State of Texas where he is somewhere else in this country today.

Then not long after all of this occurred, Lisa's mother gave me a phone call and told me that Lisa had taken her own life and she left a note that I still have in my office today and that note says, ''I am tired of running from Luke Johnson in my nightmares.''

You see, Lisa faced this entire crime alone. There was no VOCA. There were no funds for victim advocates that could sit and be with Lisa through the trial. There were no funds for therapy and counseling after this crime and after the trial. Lisa was on her own when she testified, and she was on her own after the crime was over, and she received the death penalty for being a victim of crime. Luke Johnson, he just spent a few years in the Texas penitentiary for that crime, and he is running loose somewhere in Texas.

Times did change from this type of conduct where victims were abandoned by the process, and we have progressed. When I was a judge, to show you the example of how people through VOCA make a difference, I will tell you about a second case.

This case involved a little girl named Susie. A first grader in Houston, Texas, she walked to school every day and walked home. You know, in the big city we do not normally like our kids walking to school or walking home. It is not safe. Susie's case proves the point.

One afternoon, she is walking home from school, a 7-year-old first grader in Houston. This individual, who had been stalking her for some time, pulled up beside her, rolled down the window of his pickup truck, yelled out the window, Hey, little girl. I lost my dog. Can you help me find my dog?

She stopped long enough for this perpetrator, this predator to jump out of his vehicle, grab Susie, kidnap her and

take off. He left Houston, Texas, and went down to the Gulf Coast down to the beach area of Galveston, Texas, about 50 miles from Houston. He took her to a secluded portion of that beach area, and he did to that little girl, that 7-year-old, exactly what he wanted to for as long as he wanted to do it. After he was through having his way with Susie, he abandoned her in the darkness of the night and fled. Before he left, however, he took all of her clothes away from her.

About the time the sun was coming up, Susie, in shock, walking up and down the beach, was rescued by a sheriff's deputy that was patrolling the area. She received medical aid and the attention that she needed.

The person that committed this crime was arrested out of State, extradited back to Texas to stand trial for this crime of aggravated sexual assault of a child, a 7-year-old girl.

The case was tried in my courtroom. It was sort of a high publicity case because of who the defendant was. But when Susie took the witness stand, sat next to me on the witness stand, the prosecutor started asking her questions and she turned and saw the perpetrator in the courtroom, she could not say anything. She did not say anything. All she did was stare at the offender. Eventually, she started to cry. And, Mr. Speaker, she has cried a long time. She probably thought she was alone. She was alone, but she could not testify.

Well, what do you do? Well, this was the main witness. Without this witness, the State did not have a case. The prosecutor asked for a postponement of the trial. I quickly granted that. We recessed. We came back a day or two later, and we started up the trial again.

Susie testified, sat next to me and testified. And that day she was able to testify in detail, graphic detail what happened to her when she left school one afternoon and what this perpetrator did to her.

The difference, the difference was there was another person in the courtroom, seated on the back row looking at her, telling her in her own way, you can testify. You can do this. I believe in you.

Who was it? It was the victim advocate that worked with the District Attorney's Office that walked that little girl through that case. And because that woman was in the courtroom and because she had worked with this victim before and Susie saw her, it gave her the courage to testify. And that predator, that child predator was convicted of that case because one person, a victim advocate, was present in the courtroom.

See, there was a time there were no victim advocates in the courtroom, and that time has passed, and part of the reason is that VOCA funds are used to fund advocates of victims in our courtrooms.

One of cases that I tried where I met my first victim advocate was a case that was called the choker rapist. What this individual did, he assaulted co-eds from the University of Texas, choked them and sexually assaulted them. He did this numerous times. He was sent to the Texas penitentiary. By some error or mistake, having been sentenced to about 700 years in the penitentiary, he was released after a short period of time. He came to Houston, and he continued these ways of assaulting co-eds from the University of Houston. He was captured again, and this case was tried. The victim in that case was similar to Susie in that it was difficult for her to testify. She was older. She was a college student.

The first victim advocate that I ever laid eyes on in 1984 was sitting in the courtroom, helping this witness keep with the trial and the crime and testifying. That person's name was Anne Seymour, and that was many years ago. But yet Anne Seymour and many like her work with victims on a daily basis, and part of the way they are able to take care of victims is by funding that they get from VOCA each year.

Mr. Speaker, many people do not realize that when the Oklahoma City bombing occurred, now 10 years ago, that travesty, that assault on American citizens, VOCA funds were available and used to help those victims cope with that emergency. And those funds were available immediately so that victims and their families could be helped.

I would like to read a letter from Marsha Kite. Marsha Kite's daughter was killed in the Oklahoma City bombing, and her letter states how she feels as the mother of a murder victim about the VOCA funding.

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She says: We are only days away from the 10th anniversary of the Oklahoma City bombing and I hear that there is consideration for emptying out our Federal crime victims fund.

Number 1, this critical fund that is paid for by criminals and not taxpayers.

Two, the fund helped thousands of families and survivors of the Oklahoma City bombing, including my own family. The administration needs to take a hard look at what they are contemplating and realize the devastating impact it will have on programs that provide direct services to crime victims, including crisis intervention, emergency shelters, emergency transportation, counseling and the criminal justice advocacy programs, all of which were provided to Oklahoma City families.

Number 3, no person, regardless of life choices or situations, should be met with the harmful or inadequate services. Each victim should be provided with the opportunity to access services based on their needs and not be further traumatized by a system that is neither prepared nor underfunded.

So, Mr. Speaker, these funds have helped numerous victims and their families, and it would be a total injustice to cut these funds and put them in the abyss of the general revenue.

Other examples of VOCA funding go to domestic violence shelters. Domestic violence shelters are a necessary requirement in our culture, and good people throughout this United States organize and establish these shelters to protect victims of domestic violence.

We have such a one in my hometown of Humble, Texas. It is called Family Time, and Family Time is available on a 24-hour basis for victims of domestic violence where they can go and find safety when they have to flee their own homes. If they do not go to these domestic violence shelters, where will they go?

If it was not for these shelters, many of these abused women would go directly back to that house and be victimized and abused again. These shelters are saving their lives. Many of these shelters rely on VOCA funding, and they would close down without the help of these funds, and these women and these children would be sent back to an environment of violence, domestic violence.

These are just a few examples, Mr. Speaker, of how these funds are spent.

It is interesting how we, as a Nation, are very concerned about the victims in lands far, far away across the seas, the recent tsunami crisis, where we have President Bush and President Clinton raising money in the United States to help these victims. While it is very important that we show that we are compassionate to peoples all over the world, Mr. Speaker, charity begins at home, and we need to take care of our American families first and then the world families, if necessary.

So we must do both, but we must never neglect our own people, our victims for some other Nation.

Mr. Speaker, I would like to just continue this history lesson talking about children, children in the criminal justice system, specifically children who are the victims of sexual assault.

There was a time, Mr. Speaker, when a child that was sexually assaulted would have to go through a long process in the criminal justice system. It in itself was a crime. The victim would be interviewed, usually by a police officer, a stranger. Another police officer would instruct the victim to go to the county hospital. They would wait in the emergency room along with everybody else that goes to the emergency room. They would be seen by a doctor that may or may not know anything about sexual assault cases, a doctor that sometimes was not even available to testify at the trial because they had been sent to some other hospital in the Nation.

After being seen by this doctor, then the child would have to go to the police station to be interviewed again, and there were occasions in my home city of Houston that these victims would sometimes get on the elevator to go to be interviewed by the homicide detective, and the perpetrator would be on

the elevator as well going to be interviewed by another detective.

Then, after this was over with, they would have to go to the district attorney's office and be interviewed for the trial by a prosecutor, sometimes a prosecutor that has never tried a sexual assault case, and eventually the trial would come and those traumas would continue.

Mr. Speaker, we are fortunate to say that those days are over. Those are no longer the days of children that are sexually assaulted in the United States because of groups like the National Children's Alliance here in Washington, D.C., where I am a board member. That alliance has over 400 children advocacy centers throughout the United States, and what those centers do is this.

When a child is sexually assaulted, rather than be bounced from place to place, agency to agency, they are taken to one location, a child friendly location, and probably the best example of this center is in Houston, Texas, Children's Assessment Center, that is a privately funded, publicly funded establishment, and here is what happens.

When a child is sexually assaulted, they go to this center. It is a very friendly, child friendly center, and they are interviewed only by child experts. They are interviewed about the crime and what took place. Their medical needs are met there by qualified doctors and nurses that deal with child sexual assault victims. The child, after this occurs, is allowed to talk to a prosecutor that deals only with child assault cases. The child then, before and after they testify, are provided therapy and counseling by child psychiatrists and experts, and they do all of this at the center. Every time they need to be involved in the case, they go to this one place, very child friendly, and because of centers like the Children's Assessment Center in Houston, Texas, and 59 others in Texas, 400 or more in the United States, child victims are able to cope and recover from the tragedy of sexual assault against them.

Children's Assessment Center in Houston sees 350 children a month that have been sexually abused and assaulted. They receive VOCA funds, as well as funds from the community, from private foundations and the county government. The funds at the Children's Assessment Center go for a therapist, a bilingual therapist, that is able to talk to children that do not speak just English. That therapist, along with other therapists, will disappear if VOCA funds are cut.

Just to show an impact on these centers, they constantly help kids cope with the crime. It is more important to help the child recover than even to have the perpetrator convicted, but they do many things with these kids to help them realize what has occurred in their own lives and how they can vent by even writing a letter to the perpetrator.

I have one such letter that was written by a little girl to the person who sexually assaulted her that I have received from the Children's Assessment Center in Houston today, and she starts out her letter this way.

These are some of the things that I have been wanting to say to you. I used to think that you were a nice person and that you would never hurt me. Then things changed. After you began touching me, I thought that you were not a nice person, and I wondered if you were hurting Mommy, too. When I think of you touching me, I get very mad, and I sometimes am sad. You are a jerk and a child molester. Sometimes when I think of you, I am mad at you for hurting me. I want to tell you that I am glad you are in jail and you cannot hurt me anymore. If I ever, or when I see you again I will tell Mommy and call the cops, and I will make a mad face at you. Ha, ha, you thought I would never tell but now everyone knows. I also know you did this to my sister, too. It is signed by a little girl.

Letters such as this help victims, children cope with the crime that has been committed against them. These Children's Assessment Centers all over the country, God bless them, are doing a work to save America's greatest resource, our children. VOCA funds go to these centers, and without this funding, many of these centers would not be able to open the doors.

So, Mr. Speaker, I urge my colleagues in the House on both sides of the aisle to join me and the other 50 Members and counting who have signed a letter to the Committee on Appropriations chairman to save the VOCA funds.

Grassroots victims organizations across the Nation have been flooding congressional offices with phone calls and pleading for their representatives to save VOCA and for them to sign this letter that 50 have already signed. Fourteen national victim advocacy organizations have partnered in support of saving the crime victims fund. And they are, Mr. Speaker, these organizations that work victims: Justice Solutions, Incorporated; Mothers Against Drunk Driving; the National Alliance to End Sexual Violence; the National Association of Crime Victim Compensation Boards; the National Association of VOCA Assistance Administrators; the National Center For Victims of Crime; the National Children's Alliance; the National Coalition Against Domestic Violence; the National Crime Victim Research and Treatment Center; the National Network to End Domestic Violence; the National Organization for Victim Assistance; National Organization of Parents of Murdered Children; the Pennsylvania Coalition Against Rape; the Victim Assistance Legal Organization; and even way down in Midland, Texas, the Midland County, Texas, Sheriff's Crisis Intervention Center which has 35 volunteers. That organization will cease to exist if these funds are cut.

We all are concerned, Mr. Speaker, about the budget, about the deficit, about Federal spending. We all are in agreement about that, but maybe we need to reprioritize how we spend money. Maybe we should reconsider some of the foreign giveaway programs that this country is involved in, giving away money, and maybe we should think about victims here at home, remembering that the victims fund, VOCA, is not funded by taxpayers, but it is funded by criminals, as it ought to be, and they should continue to pay, pay for the crimes that they have brought upon the good people of our community.

Mr. Speaker, victims pay. They always pay. They continue to pay after the crime is over with, and we need to be compassionate and sensitive about them because the same Constitution that protects defendants of crime protects victims of crime as well.

Lastly, Mr. Speaker, I would like to talk about a person that I never met. He was an individual that did not have much going for him. He was born the same year that my son Kurt was born in the 1970s, and my son now is a big, old strapping kid in his twenties, and sometimes when I look at Kurt, I think about Kevin Wanstrath and the people I prosecuted that killed him.

Kevin Wanstrath was born in Mississippi. His mother did not want him. So she dumped him off to some charity. The charity, though, found a home for him, and the home was in Houston, Texas. The people who adopted Kevin Wanstrath, John and Diana Wanstrath, could not have children of their own. They were middle-class folks, and so they found Kevin, they adopted him, and they made him their son, and they were happy as a family could be.

But unbeknownst to this family, Diana Wanstrath's brother, Markum was his name, was plotting to kill this entire family. While he was plotting to kill the family, Markum Duffsmith, along with three other henchmen years before, had murdered Markum's own mother, and because of the way that crime was committed, he was able to convince law enforcement that it was a suicide, and he was not prosecuted until after he had murdered his nephew Kevin.

He collected the estate of his mother, and he spent it, and when he was through spending the money, he needed more money. So he then plotted this other murder, the murder of John Wanstrath, Diana Wanstrath and Kevin Wanstrath.

One evening while John and Diana were watching Channel 13 news in Houston, Texas, two people that Markum had hired, posing to be real estate agents, forced their way into the Wanstrath home and first shot John, then shot Diana and then, while Kevin Wanstrath, a 14-month-old baby, was asleep in his baby bed curled up to his favorite Teddy bear, clothed in blue terry cloth pajamas, dreaming about whatever those babies dream about, he

was murdered. He was shot in the head. He was sacrificed on the altar of greed.

□ 1845

Because of the work of a couple of Houston police officers, all those killers were brought to justice. Two of them received the death penalty and were later executed, and two received long prison terms.

Over the years, I have kept a photograph of Kevin Wanstra on my desk, as a prosecutor, as a judge for 22 years, and now as a fortunate Member of Congress representing the Second Congressional District of Texas. You see, Kevin Wanstra never made it to his second birthday. He was denied the right to live. He was a victim of criminal conduct.

Our Nation, Mr. Speaker, needs to be concerned about the Kevin Wanstras in our culture because they have the right to live as well. Kevin Wanstra will never grow up, he will never be in the backyard playing catch with his father, will never play football, never have a date, never get married, all because he was chosen to be prey, the victim of a crime.

So our Nation, Mr. Speaker, during this Victims' Rights Week, needs to be determined. It needs to be reinforced as a culture that we will not stand idly by while people are maimed and hurt in our culture, that we will support them, that we will be compassionate toward them, and we will make sure that criminals who commit crimes against them will pay, and they will financially pay in the funding of VOCA.

Mr. Speaker, we as a people will never be judged the way we treat the rich, the famous, the important, the wealthy, the special folks. We will be judged by the way we treat the innocent, the weak, the elderly, the children. I hope when we are judged, Mr. Speaker, we are judged favorably.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SOLIS (at the request of Ms. PELOSI) for today on account of official business.

Ms. BERKLEY (at the request of Ms. PELOSI) for today.

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. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. PRICE of Georgia) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, April 18 and 19.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. PRICE of Georgia, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1134. An act to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 256. An act to amend title 11 of the United States Code, and for other purposes.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, April 18, 2005, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1594. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acetamiprid; Pesticide Tolerance [OPP-2005-0029; FRL-7705-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1595. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Buprofezin; Pesticide Tolerance [OPP-2004-0412; FRL-7691-8] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1596. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Paecilomyces Iilacinus strain 251; Exemption from the Requirement of a Tolerance [OPP-2004-0397; FRL-7708-4] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1597. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triflumizole; Pesticide Tolerance for Emergency Exemptions [OPP-2005-0054; FRL-7701-6] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1598. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus thuringiensis Modified Cry3A Protein (mCry3A) and the Genetic Material Necessary for its Production in Corn; Temporary Exemption From the Requirement of a Tolerance [OPP-2005-0073; FRL-7704-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1599. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Texas; Low-Emission Diesel Fuel Compliance Date [R06-OAR-2005-TX-0020; FRL-7895-9] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1600. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Locally Enforced Idling Prohibition Rule [R06-OAR-2005-TX-0007; FRL-7896-7] received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1601. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Coke Oven Batteries [OAR-2003-0051; FRL-7895-8] (RIN: 2060-AJ96) received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1602. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; State of Iowa [R07-OAR-IA-0001; FRL-7892-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1603. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Revised Definition of Volatile Organic Compounds [R03-OAR-2005-MD-0003; FRL-7891-3] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1604. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska [R07-OAR-2005-NE-0001; FRL-7894-1] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1605. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia, and Pennsylvania; Revised Carbon Monoxide Maintenance Plans for Washington Metropolitan, Baltimore, and Philadelphia Areas [RME Docket Number R03-OAR-2005-DC-0001, R03-OAR-2005-MD-0001, R03-OAR-2005-PA-0010; FRL-7890-9; FRL-7894-4] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1606. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Revisions and Notice of Resolution of Deficiency for Clean Air Act Operating Permit Program in Texas [TX-154-2-7609; FRL-7892-6] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1607. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington [Docket No. OAR-2004-0067; FRL-7893-8] (RIN: 2012-AA01) received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1608. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown and Malfunction Activities [TX-162-1-7598; FRL-7892-7] received March 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1609. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1610. A letter from the Solicitor, Federal Labor Relations Authority, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1611. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1612. A letter from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1613. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No. FAA-2004-19022; Directorate Identifer 2004-2004-NM-122-AD] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1614. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D and E Airspace; Olive Branch, MS and Amendment of Class E Airspace; Memphis, TN [Docket No. FAA-2003-16534; Airspace Docket No. 03-ASO-19] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1615. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG (formerly Rolls-Royce plc), Model TAY 611-8, 620-15, 650-15, and 651-54 Turbofan Engines [Docket No. 2002-NE-37-AD; Amendment 39-13962; AD 2005-03-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1616. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class D Airspace; South Lake Tahoe, CA [Docket No. FAA-2004-19478; Airspace Docket No. 04-AWP-10] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1617. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Nevada, MO [Docket No. FAA-2005-20062; Airspace Docket No. 05-ACE-4] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1618. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 90, 99, 100, 200, and 300 Series Airplanes [Docket No. 2000-CE-38-AD; Amendment 39-13928; AD 2005-01-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1619. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ozark, MO [Docket No. FAA-2005-20061; Airspace Docket No. 05-ACE-3] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1620. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes [Docket No. FAA-2004-19681; Directorate Identifier 2003-NM-184-AD; Amendment 39-13999; AD 2005-05-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1621. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 2004-SW-07-AD; Amendment 39-13963; AD 2005-03-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1622. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes [Docket No. FAA-2004-19446; Directorate Identifier 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1623. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Model 222, 222B, 222U and 230 Helicopters [Docket No. 2003-SW-23-AD; Amendment 39-13966; AD 2005-03-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1624. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19765; Directorate Identifier 2002-NM-72-AD; Amendment 39-13971; AD 2005-03-15] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1625. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model DH.125, HS-125, and BH.125 Series Airplanes; BAe.125 Series 800A (C-29A and U-125) and 800B Series Airplanes; and Hawker 800 (including Variant U-125U) and 800XP Airplanes; Equipped with TFE731 Engines [Docket No. FAA-2004-19561; Directorate Identifier 2004-NM-50-AD; Amendment 39-13972; AD 2005-03-16] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1626. A letter from the Program Analyst. FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2003-NM-256-AD; Amendment 39-13968; AD 2005-03-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1627. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. 2003-NM-16-AD; Amendment 39-13970; AD 2005-03-14] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1628. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B, EC155B1, SA-360C, SA-365C, SA-365C1, SA-365C2, SA-365N, SA-365N1, AS-365N2, AS 365 N3, and SA-366G1 Helicopters [Docket No. FAA-2005-20294; Directorate Identifier 2004-SW-39-AD; Amendment 39-13965; AD 2005-03-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1629. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 Helicopters [Docket No. FAA-2004-19038; Directorate Identifier 2004-SW-24-AD; Amendment 39-13964; AD 2005-03-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1630. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes [Docket No. FAA-2005-20108; Directorate Identifier 2005-NM-006-AD; Amendment 39-13985; AD 2005-04-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1631. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19752; Directorate Identifier 2004-NM-170-AD; Amendment 39-13984; AD 2005-04-12] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1632. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Model HC-B3TN-5( )T10282( ) Propellers [Docket No. 2003-NE-50-AD; Amendment 39-13980; AD 2005-04-08] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1633. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CT58 Series and Surplus Military T58 Series Turboshaft Engines [Docket No. 2003-NE-59-AD; Amendment 39-13982; AD 2005-04-10] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1634. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model

CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes and Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Series Airplanes [Docket No. FAA-2005-20276; Directorate Identifier 2005-NM-023-AD; Amendment 39-13979; AD 2005-04-07] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1635. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-237-AD; Amendment 39-13977; AD 2005-04-05] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1636. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 707-100, -100B, -300, -300B (Including -320B Variant), -300C, and -E3A (Military) Series Airplanes; Model 720 and 720B Series Airplanes; Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes; and Model 747 Airplanes [Docket No. FAA-2004-18759; Directorate Identifier 2003-NM-280-AD; Amendment 39-13973; AD 2005-04-01] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1637. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2004-19763; Directorate Identifier 2004-NM-187-AD; Amendment 39-13969; AD 2005-03-13] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1638. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model GV-SP Series Airplanes [Docket No. FAA-2005-20280; Directorate Identifier 2004-NM-254-AD; Amendment 39-13978; AD 2005-04-06] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1639. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400, -400D, and -400F Series Airplanes [Docket No. FAA-2004-18999; Directorate Identifier 2003-NM-259-AD; Amendment 39-13975; AD 2005-04-03] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1640. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. FAA-2004-19447; Directorate Identifier 2004-NM-97-AD; Amendment 39-13976; AD 2005-04-04] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1641. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. FAA-2004-19177; Directorate Identifier 2002-NM-202-AD; Amendment 39-13974; AD 2005-04-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1642. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters [Docket No. FAA-2005-20107; Directorate Identifier 2005-SW-02-AD; Amendment 39-13981; AD 2005-04-09] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1643. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Point Lay, AK [Docket No. FAA-2004-19813; Airspace Docket No. 04-AAL-26] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1644. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Ketchikan, AK [Docket No. FAA-2004-19415; Airspace Docket No. 04-AAL-15] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1645. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Annette Island, Metlakatla, AK [Docket No. FAA-2004-19357; Airspace Docket No. 04-AAL-17] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1646. A letter from the Program Analyst. FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Badami, AK [Docket No. FAA-2004-19358; Airspace Docket No. 04-AAL-18] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1647. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Red Dog, AK [Docket No. FAA-2004-19362; Airspace Docket No. 04-AAL-22] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1648. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Haines, AK [Docket No. FAA-2004-19359; Airspace Docket No. 04-AAL-19] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1649. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. FAA-2004-19943; Directorate Identifier 2004-NM-76-AD; Amendment 39-14010; AD 2005-06-02] (RIN: 2120-AA64) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1650. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Kulik Lake, AK [Docket No. FAA-2004-19360; Airspace Docket No. 04-AAL-20] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1651. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Coffeyville, KS [Docket No. FAA-2004-19583; Airspace Docket No. 04-ACE-73] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1652. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Prospect Creek, AK [Docket No. FAA-2004-19361; Airspace Docket No. 04-AAL-21] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1653. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Seward, AK [Docket No. FAA-2004-19363; Airspace Docket No. 04-AAL-23] (RIN: 2120-AA66) received on March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1654. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Lawrence, KS [Docket No. FAA-2004-19578; Airspace Docket No. 04-ACE-68] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1655. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Restricted Areas 5103A, 5103B, and 5103C, and Revocation of Restricted Area 5103D; McGregor, NM [Docket No. FAA-2004-17773; Airspace Docket No. 04-ASW-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1656. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Independence, KS [Docket No. FAA-2004-19577; Airspace Docket No. 04-ACE-67] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1657. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; Wichita Colonel James Jabara Airport, KS [Docket No. FAA-2004-19504; Airspace Docket No. 04-ACE-64] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1658. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, MO [Docket No. FAA-2004-19575; Airspace Docket No. 04-ACE-65] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1659. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Boone, IA [Docket No. FAA-2004-19576; Airspace Docket No. 04-ACE-66] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1660. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla/Vichy, MO [Docket No. FAA-2005-20059; Airspace Docket No. 05-ACE-1] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla, MO [Docket No. FAA-2005-20060; Airspace Docket NO. 05-ACE-2] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Colored Federal Airway; AK [Docket No. FAA-2004-18734; Airspace Docket No. 03-AAL-03] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1663. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of VOR Federal Airway V-623 [Docket No. FAA-2004-19422; Airspace Docket No. 03-AEA-11] (RIN: 2120-AA66) received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

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. OXLEY: Committee on Financial Services. H.R. 804. A bill to exclude from consideration as income certain payments under the national flood insurance program (Rept. 109–44). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOM DAVIS of Virginia (for himself, Ms. NORTON, and Mr. WAXMAN):

H.R. 1629. A bill to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Appropriations, and Rules, 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. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, and Ms. CORRINE BROWN of Florida):

H.R. 1630. A bill to authorize appropriations for the benefit of Amtrak for fiscal years 2006 through 2008, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LATOURETTE, and Ms. CORRINE BROWN of Florida):

H.R. 1631. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, 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. ENGLISH of Pennsylvania (for himself, Mr. CARDIN, Ms. HART, Mr. WILSON of South Carolina, Mr. TOWNS, Mr. SESSIONS, Mr. PICKERING, Mr. PETERSON of Minnesota, Mr. CLYBURN, Mr. MCNULTY, Mr. ISRAEL, and Mr. CUMMINGS):

H.R. 1632. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; 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. NEY (for himself, Mr. CAPUANO, Mr. SMITH of New Jersey, Mr. DAVIS of Illinois, Mr. PALLONE, Mr. WELDON of Florida, Mrs. CHRISTENSEN, Mr. ALEXANDER, Mrs. WILSON of New Mexico, Mr. BRADLEY of New Hampshire, Mrs. CAPITO, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. TAYLOR of North Carolina, Mr. ENGLISH of Pennsylvania, and Mr. RENZI):

H.R. 1633. A bill to amend the Public Health Service Act to extend Federal Tort Claims Act coverage to all federally qualified community health centers; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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. WAMP (for himself, Mr. UDALL of Colorado, Mr. BOEHLERT, Mr. MORAN of Virginia, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. SCHIFF, and Mrs. BONO):

H.R. 1634. A bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use; to the Committee on Ways and Means.

By Mr. MCCOTTER (for himself, Mrs. MILLER of Michigan, Mr. PEARCE, Mr. MANZULLO, Mr. SWEENEY, Mr. ENGLISH of Pennsylvania, Mr. RENZI, Mr. REYES, Mr. SULLIVAN, Mr. SHUSTER, and Mr. JONES of North Carolina):

H.R. 1635. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for hiring military service personnel who served in a combat zone or a hazardous duty area; to the Committee on Ways and Means.

By Mr. FARR (for himself, Mr. SHAYS, Mr. ABERCROMBIE, Mr. ANDREWS, Mrs. CAPPS, Mr. CASE, Mr. GRIJALVA, Mr. HOLT, Mr. HONDA, Mr. LANTOS, Ms. LEE, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. PALLONE, Mrs. TAUSCHER, Mr. WEINER, Ms. WOOLSEY, Mr. THOMPSON of California, Mr. UDALL of New Mexico, Ms. CARSON, Mr. STARK, Ms. SCHAKOWSKY, Ms. ESHOO, Ms. DELAURO, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1636. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. BAKER, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. CUMMINGS, Mr. BLUMENAUER, Mr. MATHESON, Ms. MILLENDER-MCDONALD, Mr. MCINTYRE, Ms. NORTON, and Mr. FILNER):

H.R. 1637. A bill to improve intermodal transportation; to the Committee on Transportation and Infrastructure.

By Mr. GRAVES (for himself and Mr. BARROW):

H.R. 1638. A bill to reinstate regulation under the Commodity Exchange Act of futures contracts, swaps, and hybrid instruments involving natural gas, to require review and approval by the Commodity Futures Trading Commission of rules applicable to transactions involving natural gas, to provide for the reporting of large positions in natural gas, to provide for cash settlement for certain contracts of sale for future delivery of natural gas, to temporarily prohibit members of the Commodity Futures Trading Commission from going to work for organizations subject to regulation by the Commission, and for other purposes; to the Committee on Agriculture.

By Ms. DELAURO (for herself, Mr. EVANS, Ms. BORDALLO, Mr. GRIJALVA, Mr. OBERSTAR, Mr. FILNER, Mr. MCDERMOTT, Mr. CASE, Mrs. CAPPS, Mr. GUTIERREZ, Mrs. LOWEY, Mr. EMANUEL, Mr. LARSON of Connecticut, Ms. HOOLEY, Mr. STARK, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. HINCHEY, and Mr. SANDERS):

H.R. 1639. A bill to require pre- and post-deployment mental health screenings for members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BARTON of Texas (for himself, Mr. HALL, Mr. UPTON, Mr. STEARNS, Mrs. CUBIN, Mr. SHIMKUS, Mr. PICKERING, Mr. BLUNT, Mr. BUYER, Mr. RADANOVICH, Mr. PITTS, Mr. TERRY, and Mr. ROGERS of Michigan):

H.R. 1640. A bill to ensure jobs for our future with secure and reliable energy; to the Committee on Energy and Commerce, and in addition to the Committees on Science, Resources, Education and the Workforce, Transportation and Infrastructure, Financial Services, and Agriculture, 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. FLAKE:

H.R. 1641. A bill to make the internal control requirements of the Sarbanes-Oxley Act of 2002 voluntary; to the Committee on Financial Services.

By Mr. FLAKE (for himself, Mr. GUTKNECHT, Mr. PENCE, Mr. HENSARLING, Mr. MARCHANT, Mr. WESTMORELAND, Mr. SAM JOHNSON of Texas, Mr. ROHRABACHER, Mr. TANCREDO, Mr. JONES of North Carolina, Mr. WILSON of South Carolina, Mr. HOSTETTLER, and Mr. MILLER of Florida):

H.R. 1642. A bill to prohibit Federal agencies from obligating funds for appropriations earmarks included only in congressional reports, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, 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. FORD:

H.R. 1643. A bill to amend various banking laws to combat predatory lending, particularly in regards to low and moderate income individuals, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, 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. FORTUÑO:

H.R. 1644. A bill to protect the critical aquifers and watersheds that serve as a principal water source for the Commonwealth of Puerto Rico, to protect the tropical forests of the Karst Region of the Commonwealth, and for other purposes; to the Committee on Resources.

By Mr. GERLACH (for himself, Mr. BRADY of Pennsylvania, Mr. HOLDEN,

Mr. PETERSON of Pennsylvania, Mr. PLATTS, Ms. HART, Mr. ENGLISH of Pennsylvania, and Mr. GENE GREEN of Texas):

H.R. 1645. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; to the Committee on Resources.

By Ms. HARMAN (for herself, Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Mrs. TAUSCHER, Mr. SHAYS, Mr. ISRAEL, Mr. WILSON of South Carolina, Ms. LORETTA SANCHEZ of California, Mr. FORD, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Ms. NORTON, Mr. BERMAN, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mrs. LOWEY, Mr. ABERCROMBIE, and Ms. LINDA T. SÁNCHEZ of California):

H.R. 1646. A bill to provide for the expedited and increased assignment of spectrum for public safety purposes; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida (for himself, Mr. HONDA, Mr. ABERCROMBIE, Ms. LEE, Mr. JACKSON of Illinois, Mrs. CHRISTENSEN, Mr. STARK, and Mr. JEFFERSON):

H.R. 1647. A bill to require that general Federal elections be held during the first consecutive Saturday and Sunday in November, and for other purposes; to the Committee on House Administration.

By Mr. HASTINGS of Florida (for himself, Mr. OWENS, Mrs. CHRISTENSEN, Mr. SERRANO, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. NADLER, Ms. LEE, Mr. GRIJALVA, Ms. CORRINE BROWN of Florida, Mr. SANDERS, Mr. HONDA, Mr. MENENDEZ, Mr. WEXLER, Mr. RANGEL, Mr. PAYNE, Mr. MARKEY, Ms. DEGETTE, Mr. DOGGETT, Mr. STARK, Mr. JACKSON of Illinois, Ms. NORTON, Mr. HINCHEY, Mr. PALLONE, Mr. KUCINICH, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. CONYERS, Ms. SOLIS, Ms. WASSERMAN SCHULTZ, and Mr. MEEK of Florida):

H.R. 1648. A bill to require Executive Order 12898 to remain in force until changed by law, to expand the definition of environmental justice, to direct each Federal agency to establish an Environmental Justice Office, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, 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. HOLT (for himself, Mr. SMITH of New Jersey, Mr. PAYNE, Mr. SAXTON, Mr. OWENS, Mr. ANDREWS, Mr. TOWNS, Mr. MENENDEZ, Mr. JEFFERSON, and Mr. PALLONE):

H.R. 1649. A bill to amend title XIX of the Social Security Act to require staff working with developmentally disabled individuals to call emergency services in the event of a life-threatening situation; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CASTLE, Mr. BOSWELL, Mrs. CHRISTENSEN, Ms. LEE, Mr. RAMSTAD, Ms. LORETTA SANCHEZ of California, Mr. SHAYS, and Mr. SIMMONS):

H.R. 1650. A bill to amend the Internal Revenue Code of 1986 to allow tax credits to holders of stem cell research bonds; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. KANJORSKI, Ms. HOOLEY, Mrs. KELLY, Mr. HENSARLING, and Mr. SAM JOHNSON of Texas):

H.R. 1651. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Financial Services.

By Mrs. MALONEY (for herself, Mr. BROWN of Ohio, Mr. DEFAZIO, Ms. WASSERMAN SCHULTZ, Mrs. JONES of Ohio, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Ms. BALDWIN, Mr. MORAN of Virginia, Mr. CROWLEY, Mr. KENNEDY of Rhode Island, Mrs. CAPPS, Mr. MCGOVERN, Ms. CARSON, Mrs. DAVIS of California, Mr. BRADY of Pennsylvania, and Ms. ZOE LOFGREN of California):

H.R. 1652. A bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARKEY:

H.R. 1653. A bill to prohibit the transfer of personal information to any person outside the United States, without notice and consent, and for other purposes; to the Committee on Energy and Commerce.

By Miss MCMORRIS (for herself, Mr. MCDERMOTT, Mr. HASTINGS of Washington, Mr. DICKS, Mr. SMITH of Washington, Mr. REICHERT, Mr. LARSEN of Washington, Mr. INSLEE, Mr. BAIRD, and Mr. YOUNG of Alaska):

H.R. 1654. A bill to provide for the establishment of demonstration programs to address the shortages of health care professionals in rural areas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHAUD (for himself, Mr. ALLEN, Mr. BERRY, Mr. BROWN of Ohio, Mr. CASE, Mr. CROWLEY, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLDEN, Mr. LARSON of Connecticut, Mr. MEEHAN, Mr. MCDERMOTT, Mr. PALLONE, Mr. REYES, Mr. ROSS, Mr. SANDERS, Mr. STARK, Ms. WOOLSEY, and Mr. WYNN):

H.R. 1655. A bill to establish an America Rx program to establish fairer pricing for prescription drugs for individuals without access to prescription drugs at discounted prices; to the Committee on Energy and Commerce.

By Mr. ORTIZ:

H.R. 1656. A bill to correct maps depicting Unit T-10 of the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

By Mr. PAUL:

H.R. 1657. A bill to ensure financial regulations do not harm economic competitiveness, nor deprive Americans of due process of law, by repealing provisions of Federal law that hold corporate chief executive officers criminally liable for the content and quality of their companies' financial report, even when the chief executive officers had no intention to engage in criminal behavior, and had taken all reasonable steps to assure the accuracy of the statement; to the Committee on Financial Services.

By Mr. PAUL:

H.R. 1658. A bill to ensure that the courts interpret the Constitution in the manner that the Framers intended; to the Committee on the Judiciary.

By Mr. RENZI (for himself, Mr. MATHESON, and Mr. UDALL of New Mexico):

H.R. 1659. A bill to fulfill the United States Government's trust responsibility to serve the educational needs of the Navajo people; to the Committee on Education and the Workforce.

By Mr. RUSH:

H.R. 1660. A bill to amend the Consumer Credit Protection Act and other banking laws to protect consumers who avail themselves of payday loans from usurious interest rates and exorbitant fees, perpetual debt, the use of criminal actions to collect debts, and other unfair practices by payday lenders, to encourage the States to license and closely regulate payday lenders, and for other purposes; to the Committee on Financial Services.

By Mr. RUSH:

H.R. 1661. A bill to amend the Small Business Act and the Communications Act of 1934 to increase participation by small businesses in spectrum auctions conducted by the Federal Communications Commission; to the Committee on Small Business, 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. SCHIFF (for himself and Ms. ROS-LEHTINEN):

H.R. 1662. A bill to require an annual Department of State report on information relating to the promotion of religious freedom, democracy, and human rights in foreign countries by individuals, nongovernmental organizations, and the media in those countries, and for other purposes; to the Committee on International Relations.

By Mr. SHAW (for himself, Mr. JEFFERSON, Mr. FOLEY, Mr. FORD, Mr. ENGLISH of Pennsylvania, Mr. BOEHNER, Mr. BLUNT, Mr. ABERCROMBIE, Mr. SIMMONS, Mr. HOLT, and Mr. GARY G. MILLER of California):

H.R. 1663. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself, Mrs. MALONEY, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. PAUL, Mr. HOLDEN, Mrs. JOHNSON of Connecticut, Mr. SHIMKUS, Mr. MCGOVERN, Mr. GERLACH, Mr. MCHUGH, Ms. HART, Mr. MICHAUD, Mr. MCNULTY, Mr. PLATTS, Ms. SCHAKOWSKY, and Mr. TIERNEY):

H.R. 1664. A bill to ensure that amounts in the Victims of Crime Fund are fully obligated; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mr. DUNCAN, Ms. WATSON, Mr. HINCHEY, Mr. MCDERMOTT, Ms. LEE, Ms. CARSON, Mr. GRIJALVA, Mr. KUCINICH, Mr. OWENS, Mr. PALLONE, Ms. SCHAKOWSKY, Mrs. JONES of Ohio, Mrs. JO ANN DAVIS of Virginia, and Mr. GEORGE MILLER of California):

H.R. 1665. A bill to shorten the term of broadcasting licenses under the Communications Act of 1934 from 8 to 3 years, to provide better public access to broadcasters' public interest issues and programs lists and children's programming reports, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. SKELTON, Mr. HOYER, Mr. LARSON of Connecticut, Mr. EDWARDS, Mr. TAYLOR of Mississippi, Mr. MCINTYRE, Mr. KIND, Mr. DAVIS of Alabama, Mr. GEORGE MILLER of California, Mr. SMITH of Washington, Ms. MILLENDER-MCDONALD, Mr. BISHOP of Georgia, Mr. ETHERIDGE, Mr. MEEK of Florida, Mr. EVANS, Mr. REYES, Mr. BUTTERFIELD, Mr. SCOTT of Georgia, Mr. CARDOZA, Mr. TANNER, Mr. COOPER, Mr. CRAMER, Mr. BOSWELL, Mr.

PETERSON of Minnesota, Mr. MELANCON, Ms. HERSETH, Mr. ORTIZ, Mr. ANDREWS, Mr. MEEHAN, Mr. ABERCROMBIE, Mr. ISRAEL, Mr. ACKERMAN, Mr. DICKS, Mrs. DAVIS of California, and Mr. SPRATT):

H.R. 1666. A bill to amend title 10, United States Code, to provide a temporary five-year increase in the minimum end-strength levels for active-duty personnel for the Armed Forces, to increase the number of Special Operations Forces, and for other purposes; to the Committee on Armed Services.

By Mr. UDALL of New Mexico:

H.R. 1667. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, 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. WAXMAN (for himself, Mr. PALLONE, Mr. DINGELL, Mr. BROWN of Ohio, Mr. RANGEL, Mr. STARK, Mr. MARKEY, Mrs. CAPPS, Mr. CONYERS, Mr. RUSH, Mr. DOGGETT, Ms. SCHAKOWSKY, Mr. MEEK of Florida, Ms. MILLENDER-MCDONALD, Ms. SCHWARTZ of Pennsylvania, Mr. GENE GREEN of Texas, and Mr. ALLEN):

H.R. 1668. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1669. A bill to ensure integrity in the operation of pharmacy benefit managers; to the Committee on Energy and Commerce.

By Mr. WEINER (for himself, Mr. CROWLEY, and Mr. BLUMENAUER):

H.R. 1670. A bill to prohibit United States military assistance for Egypt and to express the sense of Congress that the amount of military assistance that would have been provided for Egypt for a fiscal year should be provided in the form of economic support fund assistance; to the Committee on International Relations.

By Mr. WEINER (for himself and Mr. MORAN of Kansas):

H.R. 1671. A bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers in the same manner as such laws apply to collective bargaining by labor organizations under the National Labor Relations Act; to the Committee on the Judiciary.

By Ms. WOOLSEY:

H.R. 1672. A bill to provide protection and victim services to children abducted by family members; to the Committee on the Judiciary.

By Mr. SNYDER (for himself and Mr. SHAYS):

H.J. Res. 42. A joint resolution proposing an amendment to the Constitution of the United States to permit persons who are not natural-born citizens of the United States, but who have been citizens of the United States for at least 35 years, to be eligible to hold the offices of President and Vice President; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. FLAKE, and Mr. MANZULLO):

H. Con. Res. 132. Concurrent resolution expressing the sense of the Congress that the United States should formally withdraw its membership from the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. SPRATT (for himself, Mr. LEACH, Mr. MARKEY, Mr. SKELTON, Mr. SHAYS, and Mrs. TAUSCHER):

H. Con. Res. 133. Concurrent resolution stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference; to the Committee on International Relations.

By Ms. PELOSI:

H. Res. 213. A resolution raising a question of the privileges of the House.

By Mr. KING of Iowa (for himself, Mr. CHABOT, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. PITTS, Mr. WESTMORELAND, Mrs. BLACKBURN, Ms. FOXX, Mr. GINGREY, Mr. HOSTETTLER, Mr. GOODE, and Mr. ALEXANDER):

H. Res. 214. A resolution directing the Speaker of the House of Representatives to provide for the display of the Ten Commandments in the chamber of the House of Representatives if the Supreme Court of the United States rules against religious freedom by holding that the display of the Ten Commandments in public places by State and local governments constitutes a violation of the establishment clause of the first amendment to the Constitution of the United States; to the Committee on House Administration.

By Mr. PRICE of Georgia:

H. Res. 215. A resolution recognizing the need to move the Nation's current health care delivery system toward a defined contribution system; to the Committee on Energy and Commerce, 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. SCHWARZ of Michigan (for himself, Mr. DINGELL, Mr. FORD, Mr. KILDEE, Mr. CONYERS, Mr. EHLERS, Ms. KAPTUR, Mr. LEVIN, Mr. PRICE of Georgia, and Mr. UPTON):

H. Res. 216. A resolution to honor the late playwright Arthur Miller and the University of Michigan for its intention of building a theatre in his name; to the Committee on Education and the Workforce.

By Mr. WEXLER (for himself and Ms. GINNY BROWN-WAITE of Florida):

H. Res. 217. A resolution supporting the rights of individuals to make medical decisions as guaranteed by the Fourteenth Amendment of the Constitution and encouraging all Americans to set forth their wishes in living wills that designate health care surrogates and in other advance directives; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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.

MEMORIALS

Under clause 3 of rule XII,

18. The SPEAKER presented a memorial of the House of Representatives of the State of Ohio, relative to House Resolution No. 16 supporting the Defense Supply Center Columbus, and notice of joining ''Team DSCC''; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORTUÑO introduced a bill (H.R. 1673) for the relief of Laura Maldonado Caetani; 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. 11: Mr. MCCOTTER, Mr. GORDON, and Mr. JINDAL.

H.R. 21: Mr. GILCHREST.

H.R. 22: Mr. SOUDER, Mr. BISHOP of New York, Mr. ISSA, Mr. GUTIERREZ, and Mr. WELLER.

H.R. 34: Mr. BOREN, Mr. GRIJALVA, Mr. CARDOZA, and Mr. SHAW.

H.R. 36: Mr. POMEROY.

H.R. 64: Mr. ISTOOK.

H.R. 111: Mr. ADERHOLT, Mr. BERRY, and Mr. WELDON of Pennsylvania.

H.R. 112: Mr. DEFAZIO and Mr. BERMAN.

H.R. 136: Mr. ISTOOK and Mr. GALLEGLY.

H.R. 156: Mr. EMANUEL and Mr. OWENS.

H.R. 161: Mr. PAYNE and Mr. OWENS.

H.R. 162: Mr. OWENS, Mr. TOWNS, and Mr. PAYNE.

H.R. 164: Mr. CONYERS, Mr. JONES of Ohio, and Ms. LEE.

H.R. 166: Mr. WYNN, Mr. GRIJALVA, Mr. OWENS, Mr. CASE, Ms. MOORE of Wisconsin, Mr. CUMMINGS, and Mr. PAYNE.

H.R. 175: Mr. RUPPERSBERGER, Mr. PAYNE, and Mr. OWENS.

H.R. 206: Mr. CARDOZA.

H.R. 211: Mr. YOUNG of Alaska.

H.R. 230: Ms. ZOE LOFGREN of California.

H.R. 278: Mrs. MYRICK.

H.R. 282: Mr. INGLIS of South Carolina, Mr. BRADLEY of New Hampshire, Mr. RUSH, Mrs. MALONEY, Mr. FILNER, Mr. KENNEDY of Minnesota, Mr. FITZPATRICK of Pennsylvania, Mrs. DRAKE, and Ms. HARMAN.

H.R. 303: Ms. LEE, Mr. ISRAEL, Mr. CARDOZA, Mr. MCNULTY, Mr. YOUNG of Florida, Mr. LEWIS of Georgia, Mr. KOLBE, Mr. AL GREEN of Texas, and Mr. MCCOTTER.

H.R. 311: Mr. JACKSON of Illinois, Mr. WEXLER, Mr. KOLBE, and Mr. TAYLOR of Mississippi.

H.R. 341: Mr. SMITH of Washington and Mr. NEY.

H.R. 356: Mr. RYAN of Wisconsin and Mr. SHADEGG.

H.R. 376: Mr. AL GREEN of Texas, Mr. NEAL of Massachusetts, Mr. PALLONE, and Mr. LARSON of Connecticut.

H.R. 377: Mr. CARDOZA.

H.R. 389: Mr. YOUNG of Florida.

H.R. 427: Mr. HASTINGS of Florida.

H.R. 460: Mr. MENENDEZ.

H.R. 463: Mr. CARDOZA.

H.R. 478: Mr. MCDERMOTT, Mr. CONYERS, Mr. ABERCROMBIE, Ms. JACKSON-LEE of Texas, Mr. LARSON of Connecticut, Mr. MCNULTY, Mr. JEFFERSON, and Mr. PAYNE.

H.R. 503: Mr. PLATTS, Mr. CASTLE, and Ms. VELÁZQUEZ.

H.R. 517: Mr. HOLDEN, Mr. RENZI, Mrs. CAPITO, Mr. FORTUÑO, and Mr. DOOLITTLE.

H.R. 547: Mr. CROWLEY, Mr. CUMMINGS, and Mr. LARSON of Connecticut.
H.R. 558: Mr. DAVIS of Illinois and Mr. GRIJALVA.
H.R. 583: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. TERRY, and Mr. EMANUEL.
H.R. 596: Mr. PLATTS, Mr. BAKER, Mr. GOODLATTE, and Mr. BROWN of South Carolina.
H.R. 602: Mr. MURPHY and Mr. ROSS.
H.R. 615: Mr. GREEN of Wisconsin.
H.R. 616: Mr. STARK.
H.R. 627: Mr. SHAYS.
H.R. 653: Mr. KANJORSKI, Ms. HOOLEY, Mr. STICKLAND, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. PASCRELL, and Ms. CARSON.
H.R. 691: Mr. BOUCHER.
H.R. 699: Mr. PLATTS, Mr. KILDEE, Mr. WELDON of Florida, Mr. DINGELL, Mr. ROSS, Mr. LAHOOD, Ms. WASSERMAN SCHULTZ, and Mr. WAXMAN.
H.R. 703: Mr. SHADEGG.
H.R. 712: Mr. TERRY.
H.R. 719: Mr. CONYERS and Mr. ALLEN.
H.R. 745: Mr. ALEXANDER and Mr. MCCRERY.
H.R. 761: Ms. SCHAKOWSKY, Ms. CORRINE BROWN of Florida, Mr. LARSON of Connecticut, and Ms. BORDALLO.
H.R. 764: Mr. PAYNE.
H.R. 765: Mr. TANCREDO, Mr. DAVIS of Alabama, and Mr. FEENEY.
H.R. 783: Ms. SCHAKOWSKY and Mr. CARDOZA.
H.R. 792: Mr. BISHOP of New York, Mr. WALSH, Mr. BRADY of Pennsylvania, Mr. HOLDEN, and Ms. CARSON.
H.R. 793: Ms. DEGETTE, Mr. NEAL of Massachusetts, and Mr. KLINE.
H.R. 800: Mr. CUNNINGHAM, Mr. BROWN of South Carolina, and Mr. SODREL.
H.R. 801: Mr. KILDEE.
H.R. 810: Mr. MCNULTY, Ms. GRANGER, Mr. CLYBURN, Mr. COSTA, and Mr. WHITFIELD.
H.R. 815: Mr. NEAL of Massachusetts.
H.R. 817: Mr. DEFAZIO, Mr. CAPUANO, Mr. BOSWELL, Mr. CARDOZA, Mr. FARR, Ms. WATERS, Mr. ALLEN, Mr. HOLT, Mr. DICKS, Mr. GERLACH, Ms. SCHAKOWSKY, Ms. LEE, Mr. FRANKS of Arizona, Mrs. CAPPS, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, Mr. WHITFIELD, Mr. MENENDEZ, Mr. GRIJALVA, Mr. PRICE of North Carolina, Mr. STARK, Mr. KILDEE, and Mr. MICHAUD.
H.R. 839: Mr. MCDERMOTT, Mr. LARSON of Connecticut, Mr. OWENS, Mr. KUCINICH, Mr. MARKEY, Ms. WOOLSEY, Mr. PRICE of North Carolina, and Mr. SCHIFF.
H.R. 844: Mrs. DAVIS of California.
H.R. 864: Mr. KILDEE and Mr. DOGGETT.
H.R. 877: Mr. TURNER, Mr. PAUL, Mr. CUMMINGS, and Mr. MENENDEZ.
H.R. 887: Mr. SMITH of Washington and Mr. CARDOZA.
H.R. 896: Mr. NORWOOD, Mr. RADANOVICH, Mr. HOEKSTRA, Mr. SIMMONS, and Mr. GRAVES.
H.R. 899: Mr. MCHUGH.
H.R. 908: Mr. GENE GREEN of Texas.
H.R. 924: Mr. YOUNG of Florida.
H.R. 925: Mr. BILIRAKIS, Mr. OTTER, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. SHADEGG, Mr. DEAL of Georgia, Mr. SHAW, and Mr. FRANKS of Arizona.
H.R. 926: Mr. FORTUÑO and Mr. BRADLEY of New Hampshire.
H.R. 930: Mr. BOEHLERT and Mrs. CAPITO.
H.R. 934: Mr. PETERSON of Minnesota, Mr. ENGEL, Mr. CONYERS, and Mr. GENE GREEN of Texas.
H.R. 939: Mr. TOWNS and Mr. CUMMINGS.
H.R. 942: Mr. FORD.
H.R. 968: Mr. SERRANO, Mr. JENKINS, Mr. MCCOTTER, Mr. MCDERMOTT, Mr. PORTER, Mr. BERRY, and Mr. ROSS.
H.R. 972: Ms. ZOE LOFGREN of California, Mr. SCHIFF, Mr. BASS, and Mr. BUYER.
H.R. 976: Mr. NORWOOD, Mr. PORTER, and Mr. TANCREDO.
H.R. 983: Mr. GRIJALVA and Mr. NADLER.
H.R. 985: Mr. LUCAS, Mr. LATOURETTE, Mr. MURTHA, Mr. BOEHLERT, Mrs. BIGGERT, Mr. MANZULLO, Mr. ANDREWS, and Mr. MCCOTTER.
H.R. 988: Mr. BAIRD, Mr. BOEHLERT, and Mr. Matheson.
H.R. 995: Mr. FORTUÑO.
H.R. 997: Mr. BRADLEY of New Hampshire.
H.R. 998: Mr. HOLDEN.
H.R. 1049: Mr. LATHAM, Mr. WELLER, and Mr. CHOCOLA.
H.R. 1053: Mr. SNYDER.
H.R. 1059: Mr. ALLEN and Ms. MOORE of Wisconsin.
H.R. 1063: Mr. KLINE.
H.R. 1070: Mr. SODREL.
H.R. 1071: Mr. MCGOVERN, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Mr. HAYWORTH, Mr. CALVERT, Mr. BROWN of South Carolina, Mr. FOLEY, Ms. GINNY BROWN-WAITE of Florida, Mr. CASE, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Florida, and Mr. FILNER.
H.R. 1078: Ms. MCCOLLUM of Minnesota, Ms. SLAUGHTER, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.
H.R. 1079: Mr. ROGERS of Michigan.
H.R. 1080: Ms. MCCOLLUM of Minnesota, Mr. DEFAZIO, Mr. LANTOS, Mr. MCGOVERN, and Mr. GORDON.
H.R. 1088: Mrs. MCCARTHY.
H.R. 1091: Mr. SHAYS.
H.R. 1093: Mr. KUHL of New York and Mr. OWENS.
H.R. 1096: Mr. PASCRELL.
H.R. 1100: Mr. PETERSON of Pennsylvania and Mr. EVERETT.
H.R. 1105: Mr. BOUCHER, Mr. MENENDEZ, Mr. ROTHMAN, and Mr. LATOURETTE.
H.R. 1116: Mr. TOWNS.
H.R. 1120: Ms. KILPATRICK of Michigan, Mr. FILNER, Mr. VAN HOLLEN, Ms. BALDWIN, Mr. ALEXANDER, and Mrs. JOHNSON of Connecticut.
H.R. 1124: Ms. SCHAKOWSKY, Mr. COSTA, Mr. STARK, and Mr. NADLER.
H.R. 1130: Mr. BUTTERFIELD.
H.R. 1131: Mrs. JOHNSON of Connecticut and Mrs. KELLY.
H.R. 1136: Mr. TOWNS, Mr. MENENDEZ, and Mr. MEEKS of New York.
H.R. 1145: Mr. BUTTERFIELD.
H.R. 1150: Mrs. CAPITO.
H.R. 1153: Mr. HOYER, Ms. VELÁZQUEZ, Mr. CASE, and Mr. LARSEN of Washington.
H.R. 1170: Mr. SNYDER.
H.R. 1184: Mr. GONZALEZ.
H.R. 1195. Mr. CONYERS, Mrs. LOWEY, Mr. MCDERMOTT, Mr. MEEHAN, Mr. PASCRELL, Mr. RANGEL, Mr. SHAYS, Mr. THOMPSON of Mississippi, and Mr. WYNN.
H.R. 1202: Mr. GREEN of Wisconsin.
H.R. 1204: Ms. SLAUGHTER, Mr. RANGEL, Mr. LEACH, and Ms. WATSON.
H.R. 1235: Mr. REHBERG.
H.R. 1242: Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. MCDERMOTT, Mr. BISHOP of Georgia, Mr. MCGOVERN, Mr. SALAZAR, Mr. EMANUEL, and Mr. YOUNG of Florida.
H.R. 1243: Mr. PETERSON of Minnesota, Mr. PEARCE, Mr. PETERSON of Pennsylvania, Mrs. JO ANN DAVIS of Virginia, Mr. NORWOOD, Mr. BILIRAKIS, Mr. ROGERS of Kentucky, Mr. PLATTS, Mr. GARRETT of New Jersey, Mr. GOODLATTE, and Mr. NEY.
H.R. 1245: Mr. MARIO DIAZ-BALART of Florida, Mrs. MALONEY, Mr. WEINER, Mr. BERMAN, Mr. OWENS, Mr. BUTTERFIELD, Mr. REYES, Mr. ACKERMAN, and Ms. WASSERMAN SCHULTZ.
H.R. 1246: Mr. GOHMERT and Ms. GRANGER.
H.R. 1264: Mr. DUNCAN.
H.R. 1272: Mr. FOLEY
H.R. 1277: Ms. SCHAKOWSKY and Mr. WEXLER.
H.R. 1293: Mr. COSTELLO.
H.R. 1299: Mr. ROSS, Mr. SCOTT of Georgia, Mr. REICHERT, and Mr. FLAKE.
H.R. 1306: Mr. BISHOP of New York, Mr. KUHL of New York, Mr. HASTINGS of Washington, Mr. BACHUS, Mr. MANZULLO, Mr. GARY G. MILLER of California, and Mr. AKIN.
H.R. 1312: Ms. JACKSON-LEE of Texas and Mr. SHERMAN.
H.R. 1339: Mr. BOUSTANY.
H.R. 1350: Mr. LEWIS of Kentucky.
H.R. 1352: Mr. HOLT, Mr. JONES of North Carolina, Mrs. MCCARTHY, Mr. BRADY of Pennsylvania, Mr. MURTHA, Mr. KANJORSKI, Mr. EMANUEL, Mr. EVANS, Ms. LORETTA SANCHEZ of California, Mr. WYNN, Mr. THOMPSON of California, Mr. BROWN of Ohio, Mr. RYAN of Ohio, Mr. ISRAEL, Mr. MOORE of Kansas, Mr. ANDREWS, Mrs. TAUSCHER, Mr. PASCRELL, Mr. SPRATT, Mr. PEARCE, Mr. DENT, Mr. GOHMERT, Mr. DAVIS of Kentucky, Mr. DAVIS of Alabama, Mr. AL GREEN of Texas, Mr. CLEAVER, Mr. CHANDLER, Mr. WELDON of Pennsylvania, Mr. SALAZAR, Mr. BOREN, Mr. RUPPERSBERGER, Mr. COSTELLO, Mr. GENE GREEN of Texas, Mr. SCHIFF, Mrs. DAVIS of California, and Mr. BISHOP of New York.
H.R. 1356: Mr. TIERNEY.
H.R. 1365: Mr. STARK and Mr. FATTAH.
H.R. 1366: Mr. CARDOZA.
H.R. 1370: Mr. OTTER, Mr. SIMPSON, Mrs. CUBIN, Mrs. BLACKBURN, Mr. DOOLITTLE, Mr. WESTMORELAND, Mr. HOSTETTLER, and Mr. REHBERG.
H.R. 1375: Mr. EDWARDS and Mr. ORTIZ.
H.R. 1376: Mr. OBERSTAR and Mr. ALLEN.
H.R. 1380: Mr. HOLDEN, Mr. BARTLETT of Maryland, Mr. GONZALEZ, Mr. LANTOS, Mr. LEWIS of Kentucky, and Mr. ALEXANDER.
H.R. 1388: Mrs. MUSGRAVE.
H.R. 1393: Mr. KENNEDY of Minnesota, Mr. BOSWELL, Mr. PETERSON of Minnesota, and Mr. BARTLETT of Maryland.
H.R. 1405: Mr. GRIJALVA.
H.R. 1406: Mr. EDWARDS.
H.R. 1409: Mr. SHIMKUS, Mr. RUSH, and Mr. OBERSTAR.
H.R. 1415: Mr. SHERMAN.
H.R. 1426: Mr. DICKS, Ms. CORRINE BROWN of Florida, Mr. RYAN of Wisconsin, Mr. ROSS, and Mr. MCGOVERN.
H.R. 1498: Mr. FRANKS of Arizona, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. LIPINSKI, and Mr. BUTTERFIELD.
H.R. 1500: Mr. HALL and Mr. GREEN of Wisconsin.
H.R. 1505: Mr. PUTNAM, Ms. KILPATRICK of Michigan, Mr. WILSON of South Carolina, and Mr. LINCOLN DIAZ-BALART of Florida.
H.R. 1517: Mr. MCCOTTER, Mr. GOODE, Mr. BAKER, Mr. SOUDER, Mr. KUHL of New York, Mr. WILSON of South Carolina, Mr. LAHOOD, Mr. HOSTETTLER, Mr. FLAKE, Mr. GOODLATTE, Mr. MCCAUL of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. MILLER of Florida, Mr. WICKER, Mr. AKIN, Mr. KLINE, and Mr. TERRY.
H.R. 1521: Mr. RANGEL.
H.R. 1526: Mr. ABERCROMBIE, Ms. HARMAN, Mr. BARTLETT of Maryland, Mr. GUTIERREZ, Mr. YOUNG of Alaska, Mr. FRANK of Massachusetts, Mr. OWENS, Mr. STARK, and Mr. ALLEN.
H.R. 1540: Mr. TAYLOR of Mississippi.
H.R. 1545: Mr. DUNCAN.
H.R. 1554: Mr. ANDREWS, Mr. MCDERMOTT, Ms. BALDWIN, Mr. MCNULTY, and Mr. TERRY.
H.R. 1575: Mr. BURTON of Indiana, Mr. JONES of North Carolina, Mr. GOODE, Mr. MCCOTTER, Mr. BROWN of Ohio, Mr. MCINTYRE, and Mr. GENE GREEN of Texas.
H.R. 1582: Mr. WAXMAN, Mr. BACHUS, Mr. SOUDER, Mr. SHAYS, Mr. PAUL, Mr. PETERSON of Minnesota, and Mr. DAVIS of Illinois.
H.R. 1588: Mr. SERRANO.
H.R. 1595: Ms. ROS-LEHTINEN, Mr. GILCHREST, Mr. PALLONE, Mr. FILNER, Mr. HINOJOSA, Mr. LARSEN of Washington, Mr. FRANK of Massachusetts, Mrs. CAPPS, Mr.

ISRAEL, Mr. LARSON of Connecticut, Mrs. MALONEY, Ms. LORETTA SANCHEZ of California, and Ms. KAPTUR.

H.R. 1598: Ms. Ginny Grown-Waite of Florida, Mr. SHAW, and Mr. GORDON.

H.R. 1608: Mr. REHBERG and Mr. HULSHOF.

H.R. 1624: Mr. FARR and Ms. LORETTA SANCHEZ of California.

H.J. Res. 10: Mr. PUTNAM.

H.J. Res. 23: Mr. STUPAK, Mr. MCDERMOTT, and Mr. GRIJALVA.

H. Con. Res. 24: Mr. LYNCH, Mr. HONDA, Mr. MCNULTY, Mr. NEAL of Massachusetts, Ms. KILPATRICK of Michigan, Mr. OWENS, and Mr. THOMPSON of Mississippi.

H. Con. Res. 41: Mr. GONZALEZ and Mr. SNYDER.

H. Con. Res. 65: Mr. MILLER of North Carolina and Mr. CHABOT.

H. Con. Res. 90: Mr. SHAYS.

H. Con. Res. 99: Mr. DAVIS of Illinois and Mr. DOGGETT.

H. Con. Res. 108: Ms. SCHWARTZ of Pennsylvania, Mr. RANGEL, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. PASTOR, and Mr. DOGGETT.

H. Con. Res. 123: Ms. ESHOO, Mr. LANTOS, Mr. HOLT, Ms. ROYBAL-ALLARD, Mr. ANDREWS, and Mr. GRIJALVA.

H. Con. Res. 125: Mrs. JONES of Ohio, Mr. GENE Green of Texas, Mr. FRANKS of Arizona, Ms. HERSETH, and Mr. GUTIERREZ.

H. Con. Res. 127: Mr. ISSA, Mr. WEXLER, Ms. WATSON, Ms. MCCOLLUM of Minnesota.

H. Res. 137: Mr. CARTER, Mr. SESSIONS, and Mr. LATOURETTE.

H. Res. 158: Mr. MOORE of Kansas and Mr. KENNEDY of Rhode Island.

H. Res. 170: Ms. MCCOLLUM of Minnesota.

H. Res. 184: Ms. NEUGEBAUER, Ms. HARRIS, and Mr. ALEXANDER.

H. Res. 186: Mr. SHAW.

PETITIONS, ETC.

Under clause 3 of rule XII,

17. The SPEAKER presented a petition of the Office of the Mayor and City of Lauderdale Lakes Commission, Florida, relative to Resolution No. 05–47 petitioning the Congress of the United States to preserve the Community Development Block Grant Program, to restore funds lost by virtue of the Administration's FY06 budget and to enhance levels of funding previously provided in order to assist local communities in their continued efforts to develop their communities; which was referred to the Committee on Financial Services.