House of Representatives

The House was not in session today. Its next meeting will be held on Monday, March 14, 2005, at 12:30 p.m.

Senate

FRIDAY, MARCH 11, 2005

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning, we will be in a period of morning business to allow Senators to make statements. As announced by the majority leader last night, there will be no rolcall votes during today’s session. Under the order, we will begin consideration of the budget resolution on Monday at 10 a.m. The chairman and ranking member expect amendments to be offered during Monday’s session and, therefore, the next vote will occur at approximately 5:30 Monday evening.

I will reiterate what I said last night and remind my colleagues it will be a very busy week next week. The budget resolution will have 45 hours of debate remaining for its consideration. That will require late nights with many votes. I believe all Senators would like to avoid the vote-arama that often occurs prior to adoption of the budget resolution. In order to do so, we will need to keep a steady pace each day and evening next week and work together to finish the number of votes required to complete the bill. Next week is the last legislative week prior to the Easter break, so all Senators should plan to remain close to the Chamber so we can complete our work on time.

Let me reiterate what I said last evening with regard to next Friday. I know Members like to be ready to depart on Fridays normally, and particularly on Fridays before a recess, but this is budget week. Unless we have an extraordinary occurrence that I have not witnessed in recent years, we will be here through the day Friday and up into the evening Friday night. So I would say to all of our colleagues, be prepared for an unusual Friday a week from today in which we are here throughout the day voting, and well up into the evening voting, unless something truly extraordinary occurs that allows us to reach completion before that time.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE BUDGET RESOLUTION

Mr. REID. Mr. President, we have, in effect, agreed to use 5 hours of the time on the budget today. The real work on...
The President proposes that we make deep cuts in many programs that are important to working men and women, for those in real need. And why? To pay for large tax breaks for the wealthy and to provide a variety of giveaways to special interests.

In his budget, the President is ignoring the lessons of the Gospel, the lessons there of the rich man. For example, the President’s budget cuts health care for the most vulnerable citizens. The budget would cut Medicaid, which ensures that more than 50 million children, pregnant women, elderly, and people with disabilities have access to the medical services they need. At the same time, the budget maintains a slush fund with billions for HMOs. That is not right.

The President’s budget also calls for cutting education. More than 48 education programs will be affected, with the cuts exceeding $1 billion. So our children will suffer. At the same time, the budget calls for opening a precious wilderness area in Alaska for the oil and gas industry. That is not right.

The budget cuts benefits for veterans. The men and women who served our Nation with bravery and courage over the decades, the people who have put their lives on the line on behalf of this Nation, are going to have to pay more for their health care. At the same time, the administration wants to protect the drug industry by denying Medicare the right to bargain for lower prices. That is not right.

The budget cuts the COPS Program. It is an over 90 percent cut. That is the program that helps police departments hire police officers to keep streets safer. So our men and women in uniform and the neighborhoods they serve will suffer. At the same time, the budget does little to close the special interest loopholes and corporation interests to avoid paying taxes. That is not right.

The budget underfunds environmental protection. At the same time, it lets big polluters off the hook from paying the cost of cleanup. That is not right.

The budget fails to adequately fund the National Family Planning Program, which provides critical health care services to low-income women and helps prevent unintended pregnancies. At the same time, it continues to support so-called health savings accounts, which are tax shelters for the wealthy that fail to meet the needs of those of modest means. That is not right.

America is a country that values everyone, the worker just as much as the CEO of the largest company in America. And most Americans would agree it is not right to cut health care for children or cancel out college, cut education, cut benefits for veterans, cut law enforcement, while handing out a wide variety of giveaways to special interests and the powerful. That is not just bad policy; it is wrong, it is immoral.

Unfortunately, the budget resolution approved yesterday by the Budget Committee, with a few changes in the margins, is based largely on the President’s deeply flawed budget. I think we can do better. I think we can create a budget that is good for Lazarus as it is for the rich man.

Next week, we will take up the budget resolution, as I have indicated. We will work to make it better. But if the last couple weeks is an indication, there will be marching orders given to the majority, and they will march down here and vote against veterans, against children, against women, and against education generally.

So we will do our best. We will present these issues to the American people, and the American people will see what is happening in this country. The programs that are important to this country are being starved, starved at the expense of the American people. And the tax cuts go on.

Our goal is to turn this budget into a moral document for which we can all be proud, a document that truly reflects our Nation’s priorities and the values of the American people.

I suggest the absence of a quorum.

The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I rise today to share with the Senate a story that truly speaks to the words of the President's vision to turn this budget into a moral document.

The President, in his budget, is ignoring the lessons of the Gospel. He is ignoring the words of the rich man who lived in the same vicinity as the poor man, Lazarus, who was very poor. In life, the rich man lived a grand life and paid no attention to the very poor. In death, the rich man was forgotten. The rich man did not share his observations of it, and they based their presentation to me on a story from the Gospel of Luke in the New Testament.

In this story, there is a rich man and a poor man who lived in the same vicinity. The rich man lived a grand life, while the poor man, Lazarus, was very poor. In life, the rich man lived a grand life and paid no attention to the very poor. In death, the rich man was forgotten. The rich man did not share his observations of it, and they based their presentation to me on a story from the Gospel of Luke in the New Testament.

When you examine the Bush budget through a moral lens, as they were doing, you can clearly see the injustice and the lack of values in this budget.

I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.
meet their financial obligation. However, the mortgage company responded by sending notice to Mrs. Keira Welter that the company had initiated court proceedings to foreclose on her home. You can imagine this lady’s distress. Not only is she worried about the safety of her daughter, who is at school, but she also faces losing her home, with three children, the very scenario the Service-members Civil Relief Act is designed to prevent.

I also want to be clear it is not only financial institutions that are responsible for complying with this act. Landlords and property owners have certain obligations in this regard as well. I recognize that with many service members called to active duty, raising awareness of the requirements of the Service-members Civil Relief Act is necessary. Congress should encourage anybody who is working with a service member called to active duty, or that servicemember’s family, to make sure they are aware of their obligation under this act.

Let me also take this opportunity to commend the efforts of many organizations who are working with the military families on base, veterans organizations, support organizations, and others, to ensure they receive the protections provided for under this act, and to provide other assistance to families of our servicemembers. That is a real win-win story all across this Nation.

I recently learned from a member of the VFW who works with military families, who stressed that “education about the protections that are provided under the act is key.” Too many military families have experienced instances where a landlord, unaware of this act, has proceeded to evict the family while the soldier was on active duty. That is egregious.

I am calling on the Office of the Comptroller of the Currency, the OCC, to strengthen their enforcement in education of this important law. Any military family who has a mortgage with a national bank and who needs relief under this act can contact the OCC’s consumer assistance group if they have difficulty with their bank. That number is 1-800-613-6743. Right off the bat, I can suggest that they need an easier number to remember. I feel as though I am on television trying to sell something there—and I am. It is education for our service members. Again, the number is 1-800-613-6743.

In 1943, I was privileged to visit with my colleagues on the Veterans Committee, the Banking Committee, Armed Services Committee, upon which I serve, and all who have jurisdiction under this act, and ask them to review what Congress can do to ensure that this situation does not happen to other military families.

Today I share this story to reassure our military men and women in uniform that we will make certain the protections provided in the Service-members Civil Relief Act are enforced. This act is intended to ensure that when a wage earner is called to active duty, their family has financial security and other protections provided for in the act while they are deployed. It means a soldier fighting in Iraq can better focus on his or her mission, without the added stress of wondering if their family is financially secure at home. We owe nothing less to our men and women in uniform who answer the call to duty.

At the beginning of my career as an attorney I would have thought that I would have some difficulty dealing with the large number of legal issues, but it is safe to say that it is true.

OIL IN ALASKA

Mr. STEVENS. Mr. President, I ask unanimous consent that I be permitted to speak for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I come to the floor this morning because of the misinformation being spread, particularly through the media, in the past weeks on what is called ANWR. It is the area in the 1 ½ million acres of our arctic coast that has been set aside since 1980 for oil and gas development. I have been involved in this issue almost since the beginning of my career. I want to talk a little bit about the history of this area.

In 1923, President Harding withdrew 23 million acres for the Naval Petroleum Reserve Number 4. That did not include the area of the Arctic we are dealing with today, but it was the first indication to the Nation that there was tremendous oil and gas potential in the northern region of Alaska. We were a territory then, and this withdrawal came right after the Teapot Dome scandal. So even then there were indications of places in the United States where there were areas that could be explored or developed for oil.

This withdrawal was important because the Navy used a great deal of oil. They used to take it right out of the ground in Alaska and pump it right into Navy vessels. They burned the real crude oil at that time. It was essential to develop and use the Alaska resources for national defense. The whole concept of Alaska has played a strategic role in national security throughout its history, particularly beginning in 1923. Incidentally, that was the year of my birth. So I have been around during this whole period.

In 1943, as World War II was going on, the Secretary of the Interior issued Public Land Order 82, which withdrew all of the public and non public lands in Northern Alaska—encompassing over 48 million acres. One of the reasons stated by the Secretary at that time was that tremendous areas of oil and gas that might be in northern Alaska were necessary for use in connection with the prosecution of the war.

As a matter of fact, history shows that in about 1917 there was a group of people who had to go to the northern area of Alaska along the arctic coast and started staking mining claims, claiming the oil in those lands. That led
Congress, in 1920, to enact the Mineral Leasing Act. Particularly the Texans didn't want to see Alaskan oil develop over a patenting process where they didn't have to deal with the national concern.

In fact, it was, I think, basically the southwestern oil bloc that led to the two orders I mentioned. They were afraid of the real development of northern Alaska. There were oil seeps all the way along the arctic coast. People knew there was oil. The question was whether the area could be commercially developed?

Public Land Order 82 was still in existence when I went to the Interior Department in the 1950s. I was Legislative Counsel and Assistant to the Secretary of the Interior Fred Seaton. At the end of the Eisenhower administration, I was the Solicitor of the Interior Department.

I worked with Secretary Seaton at the time who decided to revoke Public Land Order 82 because there were vast areas up there that we thought had oil and gas potential, and we wanted to get to them.

Our Statehood Act, which came about in 1958, required approval of the President of the United States to have any development north of the line, what is called the pick line. The Porcupine and Yukon Rivers basically made that line. President Eisenhower, again, in the interest of national security, said nothing should take place, no action should take place up there of a national nature without consideration of national security. It took approval of the President to revoke that Public Land Order 82 and to start allowing the State of Alaska to select lands.

After Secretary Seaton had issued the order to revoke Public Land Order 82, the State of Alaska did, in fact, select a portion of land between the Navigable Arctic Waters and the area of the Arctic National Wildlife Range created in 1960 which was the Arctic National Wildlife Range.

Again I want to say, the Range, which included the 1.5 million acres of Arctic coast we are debating today, was created to assure the Fairbanks Women's Garden Club that there would be protection of the flora and fauna of northeastern Alaska. At that time, what was not withdrawn—the 25 million acres on one side of the Naval Controled Reserve and the area west of the Arctic wildlife range to the east—was a corridor that later became known as the Prudhoe Basin area.

From that area, after discovery of oil in 1968, we have now produced over 16 billion barrels of oil, although at the time the estimate of those involved in making the survey was that up to 1 billion barrels of oil might be recoverable from this area.

When Secretary Seaton revoked Public Land Order 82 in 1960, he also created the 8.9-million-acre Range. I helped draw up that order. That order specifically permitted oil and gas activities to take place under stipulations to protect the fish and wildlife.

After the Eisenhower administration came to an end, President Kennedy was elected. On the first day of that new administration, I visited with Stewart Udall who was the new Secretary of Interior. I told him the background of what we had done. His brother was in the House of Representatives. He disagreed with me about what was to happen in that area.

At the time in 1960 when we issued the order, creating the Range, the Under Secretary of Interior, Elmer Bennett, who used to be a staff member of the Senate, assured Alaskans that "this Department has every intention to foster legitimate oil and gas activity within this area, if any potential is discovered."

There is no question about it, the Eisenhower administration strictly approved the concept of setting aside an area to protect the fish and wildlife but also manage the land, that is oil and gas leasing would be protected.

I was appalled this last week when some of the Eisenhower family came forward and sort of indicated that it was the intention of President Eisenhower to destroy the wilderness. Nothing is further from the truth. That is not the truth at all. We did not withdraw a wilderness; we withdrew a wildlife range.

I believe there is no question about this: We are heading into an area about which people ought to know the history. Let me go further than that. As Assistant to the Secretary and then Solicitor, I studied the Alaska Native claims. I was from Alaska, and Secretary Seaton, on the floor of this Senate, as a Senator, made only one speech, and that was a speech to urge Congress to admit Alaska into the Union as a State. He was committed to Alaska statehood, and he asked me to come and join him in the Department. I readily did that. Elmer Bennett, who was the Under Secretary, was a friend of mine. We started off to develop the concept of getting Alaska into the Union.

Section 4 of the Statehood Act, which I also helped draft along with my predecessor Senator Bartlett, who was a delegate from Alaska to the House of Representatives, specifically required that Congress take action to settle the Alaska Native land claim.

I believe that prior to that time, Alaska statehood was defeated because the Alaska Native people and their representatives opposed statehood because they had substantial claims against the United States and they were afraid of concepts of land grants to the new State that might harm them. We wrote in section 4 of the Statehood Act that Congress would take that act, and nothing in the Statehood Act would expand or diminish the claims of Alaska Natives against the Federal Government.

During this time, my predecessors, Senators Gruening and Bartlett, introduced bills to try to settle these claims. They were not enacted because they were not acceptable to Alaska Natives. When I came to the Senate in 1968, I started participating in the activity and introduced the bill to settle Alaska Native land claims.

I met with President Nixon later in 1970, along with representatives of the Alaska Natives, in order to urge the President to come forward and support an enormous land settlement. President Nixon, to his credit, did do that. We worked with the President at that time was a person named Don Wright, who was a member of the State legislature when I was there, a distinguished leader of the Gwich'in community.

We developed the concept of settling the land claims by the State and Federal Government participating together in a billion-dollar cash settlement and the Federal Government recognizing that entitled Alaska Natives to 44 million acres and those lands would be subject to oil and gas leasing.

We proceeded with the land claim settlement, and by 1971 we had a bill which was a very good bill. It required the approval for the first time of Alaska Native land claims. We proceeded to accept that bill to become a State. We, in fact, developed a compact with the United States in our statehood process.

At the time in 1958 when we required the settlement by Congress, we recognized we were the representatives of the Native people. My bill, along with my colleague, then-Senator Gravel, brought about the settlement of those claims.

A byproduct of that was we created a series of regional corporations for the Alaska Native people. Those corporations and their village corporations also—the land was separated between the village corporations and the regional corporations. The net result of it was that the regional corporations were subject to one provision I authored, which was that any regional corporation that received income from resource development—it is called 7(I) in that 1971 act—was required to share those revenues with the other 11 regional corporations.

This was very important because Don Wright, who had been with me at the time of the meetings with President Nixon and represented the Gwich'in people, decided they did not want to share any money with a settlement in terms of being an area subject to the concept of a regional corporation, and they took the title to their lands, subject only to the control and advice of the Secretary of Interior. But they did not participate in the settlement in any other way. They were allowed to take their lands, and they got some of the cash, but they did not come under 7(I).

I mention that because often the representatives of those people visit this city. The Gwich'in people live on the South Slope of Alaska. It is the North Slope that has the oil. It is the North Slope that had Prudhoe Bay. It
is the North Slope that has the Arctic coast. But the Gwich'in people, particularly the Arctic village people, withdrew from the settlement for the reason they thought they had the oil. They immediately tried to lease their lands and did not want them to have coal, and they thought they should have coal development. They urged for coal development. No one wanted to develop their coal. Where they are located, it is almost impossible to have a corridor to the south without going east and then south. It was just not economically feasible. It might be sometime in the future.

But the Gwich'in people lost out by their decision to go it alone. They now have coal, and they thought they had the oil. Where they also had coal, and they thought they had the oil. They immediately tried to lease their lands and did not want them to have coal development. They urged for coal development. No one wanted to develop their coal. Where they are located, it is almost impossible to have a corridor to the south without going east and then south. It was just not economically feasible. It might be sometime in the future.

The Anaconda Corporation, in the 1970s precipitated by the Arab oil embargo. At that time, we were importing a third of our oil, and the embargo devastated our economy. Today, we import 60 percent of our oil. Imagine the consequences of an embargo now.

In the wake of this energy crisis, Congress debated the Trans-Alaska Pipeline Authorization Act. During this debate, there was an understanding on both sides of this aisle, no filibuster. The final pipeline was approved when the Senate passed the bill to break the tie of 49 to 49, but there was no hint of filibuster from either side. There were people on both sides of the pipeline, but they said it has to be an up-down vote. This was important for our national security.

It was a national security issue because our nation needed oil. The debate was over whether the Senate should approve the pipeline, but they said it has to be an up-down vote. This was important for our national security.

It was a national security issue because our nation needed oil. The debate was over whether the Senate should approve the pipeline, but they said it has to be an up-down vote. This was important for our national security.

Having visited the Arctic on nine occasions in the 1002 Study Area for the following reasons.

1. The development of the pipeline is going to destroy the caribou; it is going to destroy the environment. None of that has been true. The same people who made the arguments then are making them now. The same organizations that collect oil leases throughout the country now—send in your money and help save the Arctic—tried that then. The 3,000 caribou in the area of the pipeline are now 32,000. They have not been harmed at all. Alaskans do not allow our wildlife to be harmed. We will protect the caribou when they come to the Arctic coast.

I wonder, Mr. President, if you know that there is no oil and gas drilling activity in the summertime. If there have been production facilities put in during the summertime, you can produce oil in the summertime as long as you do not interfere with the wildlife. The oil industry wants to do it in the summertime because the lands are frozen. They can take equipment across the lands easily. They can build ice roads. They can develop whatever they want and put them on pads, and when they leave, they remove the pads, and the roads thaw in the summertime.

I challenge anyone to come up and find where the camps were to build the Alaska oil pipeline. When we hear these extreme environmentalists talk, one would think developing the oil and gas of the Arctic plain would harm it. That is not true at all. The new technology we are using in oil and gas in Alaska will take an area smaller than Dulles Airport to develop this 1.5 million acres. But that is another thing.

The final pipeline was approved when the Vice President of the United States cast his vote to break the tie of 49 to 49, but there was no hint of filibuster from either side. There were people on both sides of the pipeline, but they said it has to be an up-down vote. This was important for our national security.

The ink was not dry before President Carter tried to renge on the law that he had just signed. Even today a letter has come now to us from President Carter called about oil from this area that is known as ANWR. It is not part of a refuge. It will not become a part of the refuge until the oil and gas development phase is completed. Sometime when we have exhausted the resources, it will become part of the refuge.

That debate started in 1972 and did not end until 1980. It was a battle between the forces led in the House by Mo Udall and in this body by Senators Jackson and Tsongas. I and my colleagues, Senator Gravel, tried our best to represent Alaska. We had a bill almost completed in 1978. It had passed the House and the Senate and gone to conference.

Both Senator Gravel and I participated in that conference. Even though I was not a member of the committee at the time, they permitted me to be in that conference for a long period of time. After the bill had passed the House in the waning moments that ended the 1978 Congress, Senator Gravel blocked that bill. So when we came back in 1979, we had to go back and deal with it again.

After Senator Gravel blocked the bill, President Carter proposed 1.5 million acres of Alaskan land under what is called the Antiquities Act. Congress had to pass a bill to lift that withdrawal made by President Carter in order that we might proceed with the development of Alaska and allow Alaskans to select statehood lands and the Alaskan Native people to get their land claims to those lands.

We worked very hard and we finally succeeded that passed the Senate and the House. The bill passed the House, went to conference, and came back to the Senate. This is 1980. It passed the Senate as a conference report and went to the House. President Carter asked the House not to pass it before the election because his campaign agreed with Senator Steinfeldt. In 1980, that created the 1.5 million acres in which oil and gas development was permitted.

After that election, which President Carter lost, President Carter then asked the House to pass the bill. That bill was signed by him after the election and before he left office. In that election, Republicans gained a majority of the Senate. My constituents asked me to do everything I could to block that bill. It had already passed the other Senate. When the President signed it, it became law.

There has been a similar letter come to me, and that I have shared with the Senate, and that happens to be the letter from former Senator Jim Buckley. In the 1970s, Jim Buckley, as he left the Senate, became one of the opponents of the development of this area. As a matter of fact, he had voted against it while in the Senate.

Unsolicited, on January 24, former Senator Buckley, now Judge Buckley, sent me a letter. I ask unanimous consent that the letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEEVES. He pointed out:

Twenty-six years ago, after leaving the Senate, I was a lead signatory in full-page ads opposing oil exploration in the Arctic National Wildlife Reserve that appeared in the New York Times and The Washington Post. I opposed it because, based on the image where I was, I believed it would threaten the survival of the Porcupine caribou herd. Populations in the Porcupine Bay and the Alaskan pipeline have increased, which demonstrates that the Porcupine herd would not be threatened, and new regulations limiting activity during the winter months and mandating the use of ice roads and directional drilling have vastly reduced the impact of oil operations on the Arctic landscape.

In light of the above, I have revised my views and now urge approval of oil development in the 1002 Study Area for the following reasons.

He lists the three reasons, and he specifically says, as he closes:

Having visited the Arctic on nine occasions over the last 13 years (including a recent
canyon trip on Alaska’s North Slope). I don’t think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don’t see the threat to values I cherish.

It is signed “Sincerely, Jim.”

Now presents an informed point of view. I am now in a position where I think we must address what has been said in the newspapers and so many areas about the value of the oil in this area.

The coastal plain of ANWR is not a wilderness area. There was a test well drilled in this area, the results of which remain secret under an agreement between the oil industry and the Federal Government. It was drilled near Kaktovik.

When I heard people such as Senator Feinstein say ANWR should not be in the budget resolution because the land does not have any value, he is wrong. The land does have value. As I said before, when we were trying to develop Prudhoe Bay, the estimate was made that there was a billion barrels of oil at the most in Prudhoe Bay.

After producing 16 billion barrels, we know there is oil on the coastal plain of ANWR. There is no question that we have an interest in national security, to drill in this area.

The budget that is coming before us, and I will be speaking again next week on this, has a provision which deals with the estimate of the amount of money received by the Federal Government and the State in the first 5 years of the development of this area. I believe that is $5 billion. Those revenues would be split between the State and the Federal Government. In the process of valuing what the oil might be worth, the value of $25 a barrel for oil has been used. I asked the CBO: Why do you not use the actual amount of oil today, which is over $50?

They said that was the amount used when they first made the study, and they said there has been any study to justify raising that now. As their baseline for oil, they are using $25 a barrel.

So anyone who says this is not a valuable thing in the budget because of the money that is going to be raised ought to understand the minimum that will come in will be twice that amount. People are going to base their bids on the value of the oil that might be produced.

I will speak longer on this at a later date, but I want to say one thing. At the time President Carter signed this bill in 1980, the Alaska National Interest Lands Conservation Act, I was urged to block it. President Carter had received about 90 percent of what he wanted in this bill. By preserving rights of access to Alaskans, the right to use traditional means of transportation, and protection of native peoples and communities, Alaskans got 10 percent. The only major difference was the 2,102 area.

The amendment that provided for the 1002 area was authored by Senator Jackson and Senator Tsongas, not by me. It was authored by them as a commitment with Alaska, and it guaranteed that we would be able to explore this area that is so valuable to our future. This is the area that former President Carter asked Congress now to take back, and some members of the House want to turn it into a wilderness area now.

After we went to the majority and getting ready for the session in 1981, I was assistant leader. Senator Baker was the majority leader. I had calls from home: Change this law and change it now. I said, no. In Alaska we have a saying: I believe that is a debt unpaid. I entered into an agreement with Senator Jackson and Senator Tsongas that we would accept what they and President Carter wanted, conditioned upon Alaska retaining its rights to explore and develop the Arctic coast of Alaska. In 1981, we could have changed it. I was urged to change it.

Now, after 24 years of arguing over this issue, and it has been before this Congress every year since 1981. I told a group the other day I am distressed that I must argue again and again for Congress to keep its promise to the Alaskan people. This year I will argue that again.

My mind goes back to those Alaskans—they put a full page ad in the paper saying: Ted, come home. You no longer represent Alaska. Come home so someone else can change that law and get some of the things we did not achieve under the 1980 act.

Now all we are asking is for the Congress, and particularly this Senate, to follow that law to allow us to proceed with this development. But what do we face? We face a filibuster, something that was unheard of when the oil pipeline was considered. We now have the issue of oil exploration and development before us, and in an area even more promising than Prudhoe Bay, in my judgment. We know it is a larger structure under the Earth. It could contain more oil than Prudhoe Bay, although the estimates are lower. When we look at it, the simple question before the Senate, in my mind, is: Is this a national security issue? Is the ability to fill the Alaskan oil pipeline a national security issue?

During the Persian Gulf war we sent 2.1 million barrels of oil a day to what we call the South 48, the continental U.S. Today we are sending 900,000. The pipeline in the pipeline cannot be full again unless we obtain the oil from the Arctic coast.

It is still a matter of national security. I challenge the necessity to try to get 60 votes to make this become a reality. That is why we have to use the Budget Act to try to avoid that threat of a filibuster, which did not exist in this Chamber on the Alaskan oil pipeline.

I will be up again and again, because this may be my last stand at trying to convince Congress to keep its word. It is getting more difficult to serve in a Senate that cannot—and will not, carry out commitments that were made by previous occupants of this body.

Thank you very much.
One week ago today, in fact, Senator Reid and I, Senator Durbin, and a couple of other colleagues were in New York. We held a forum in New York City on Social Security. We then went to Philadelphia, PA, and held a forum on Social Security. Then we flew west and we held one in Phoenix, AZ, and another one in Nevada. So there has been a lot of discussion about Social Security.

The President originally said there was a crisis in Social Security, which seemed to me to be a strange choice of words because, in fact, Social Security will be solvent until George W. Bush is 106 years old. Let me say that again. I think it is important. Social Security will remain solvent until this President reaches age 106. But he and others in the administration have said there is a crisis, it is going to go broke, it is going to be flat busted.

Social Security is a program that has been remarkably successful, that has lifted tens of millions of senior citizens out of poverty over many years. The fact is, people are living longer, healthier lives these days so Social Security will have some adjustments, perhaps, in the future; but it is not major surgery that is required and it is not justification for saying there is a crisis or it is bankrupt or other types of language that the President and others have used.

The kind of adjustments that may have to be made—again they may not have to be made if we have robust economic growth in the coming 75 years—but they are important. Some kinds of adjustments that may have to be made are not major. We can do that. But this ought not be a pretext for taking Social Security apart and talking about privatization of Social Security.

I was curious about why this comes up in this context right now. I know it is not about economics. President George W. Bush ran for Congress in 1978 and he said then that Social Security would be solvency 20 years, by 1998 we ought to go to private accounts. Well, almost 30 years later, he is saying we ought to go to private accounts.

Social Security is a program that has been remarkably successful, that has lifted tens of millions of senior citizens out of poverty over many years. The fact is, people are living longer, healthier lives these days so Social Security will have some adjustments, perhaps, in the future; but it is not major surgery that is required and it is not justification for saying there is a crisis or it is bankrupt or other types of language that the President and others have used.

I respect the President. He has every right to have a philosophical objection or philosophical concern about the Social Security Program.

One of the leading voices on the far conservative right said this recently: Social Security is the soft underbelly of the liberal welfare state.

That is part of the political debate, I guess. If you are on the far right, you have a right to say that, and a right to think that, and a right to manifest your right to take Social Security apart. But I don’t happen to share that. I think Social Security has been a remarkable program that every worker pays into, and when you retire, you get something back at a time when you have reached declining income years in your life. That is the one portion of retirement security you can count on.

In most cases you aspire to have retirement security by doing three things. No. 1, you pay into Social Security for this insurance. Yes, it is insurance, not investment. In the FICA tax that comes out of your paycheck, the portion for Social Security is for “insurance,” not “investment.” So one part of retirement security is the guaranteed portion, Social Security. It will be there. You know it will be there. You know how much it is going to be. It is the guaranteed portion.

The second is hopefully you work for a company that offers a pension. Only half of the American workers do, but we would like more companies to offer a pension. But that is a second part, a pension, private pension: a pension from your work.

The third part is private investments: 401(k)s or IRAs or the kinds of private investments that you make, much of which go into the stock market. I strongly support that. But that is not where I argue Social Security apart. Social Security is one of the three legs of retirement security: Social Security, the guaranteed portion, the portion without risk; pensions from your job; and then private investment accounts, such as 401(k)s or IRAs.

We are going to have a robust discussion about this in the weeks and months ahead. It is a worthy discussion for our country to have. This is a great country, made better, in my judgment, because we have done some of the things we have done to address some of our problems.

When Franklin Delano Roosevelt saw that one-half of our senior citizens were living in poverty, he believed something should be done about that. So we created a Social Security Program that workers paid into and retirees are able to draw from, and now less than 10 percent of America’s senior citizens are living in poverty. Why? Why that success? Because of Social Security. We think the task we all have is not to take it apart but to strengthen it and nurture it and preserve it for the long term. At least that is my interest.

I started by talking about the fact that the President describes Social Security as a crisis. It is not a crisis. However, our country does face a very real, very imminent crisis, in the area of international trade.

This morning it was announced by the Department of Commerce that the trade deficit for the month of January was $58.3 billion. Let me say that again: a $58.3 billion trade deficit in 1 month. That means nearly every single day, Americans have bought about $2 billion worth of goods from other countries in excess of the amount of goods we sold those countries. Said another way, every day in the month of January other countries ended up owning 2 billion more dollars of our country. Their claim on our country was increased by $58.3 billion, pretty nearly 2 billion a day, nearly $60 billion in 1 month of increased foreign claims against American assets. China and others end up owning more and more of our country as a result of these pernicious trade deficits.

We have a growing, serious, abiding crisis in our international trade and this country seems willing to sleep through it. By “this country” I mean the President and the Congress. They are perfectly willing to sleepwalk through this, while every single day and every single month China and Japan and others end up owning more of America.

Let me describe why we have this trade deficit that is growing at an alarming rate, over a $600 billion trade deficit last year. Why does this exist? Let me give you some examples.

American corporations in most cases no longer consider themselves just American if they are doing business around the world. They want to maximize profits for their shareholders and they guess if you move your jobs overseas—we will give you a tax break. It is unbelievable, unbelievably stupid, that our country would have in its Tax Code incentives for people to shut their American plant and move it overseas. Yet that exists. I have tried to close it through amendment legislation and I have lost. But we are going to vote on that again this year and we will see whether any minds have changed.

Let me give some examples of what is happening. Levi—everybody knows about Levi’s. People like to wear Levis; put on Levi’s for the weekend. Except now Levi doesn’t make Levis anymore, not one. Levis used to be American. They made Levis in America. Then they moved Levi’s to Mexico and to other parts of the world. Now they don’t make any Levis. All they do is contract with foreign companies who make Levis for the Levi Company.

Newton cookie to any place on Earth, creating Fig Newton cookies. All American, right? Want to have some Mexican food tonight? Eat a Fig Newton cookie because that left America. Why? Cheaper wages in Monterrey, Mexico. Eat a Fig Newton cookie and you are eating Mexican food.

What about Huffy bicycles? Twenty percent of the American bike market is
Huffy bicycles. You buy them at Sears, Kmart, Wal-Mart. We had folks in Ohio who made $11 an hour who made Huffy bicycles, but they got fired. Do you know why? Because Huffy bicycles are now made in China at 30 cents an hour and those workers can't compete with 30 cents an hour and should not have to. But nonetheless they lost their jobs and Huffy bicycles are now made in China to ship back to our country, so consumers conceivably have an advantage of a lower cost bicycle.

I am not certain the bicycle costs less. I know the profits of the middlemen are inflated, and I know Americans who honored their manufacturing jobs and loved their jobs got fired from all their jobs because they couldn't compete with a Chinese worker working 7 days a week, 12 to 14 hours a day, who is paid 30 cents an hour. That is what is happening to American jobs. And people say, well, that is the new economy, Senator Dorgan. You just don't understand it. No. I don't.

We spent a century, we spent 100 years in this country fighting about important things: about child labor, about whether you can work 12 hours a day, and work next to 12-year-old kids. We decided that is not fair; about whether you should expect to be able to work in a safe workplace and about whether you have the right to organize in America. We had people dying in the streets, people demonstrating for the right to organize. They died in the streets of America for the right to organize as workers and for the right to a fair wage. We went through all of those things for over a century. It was hard and tough.

Now a company can decide: You know something, we don't have to care about any of that. We can hire 12-year-old kids, work them 12 hours a day, pay them 12 cents an hour, build a manufacturing plant, and throw chemicals in the water, throw chemicals in the air, and the manufacturing plant doesn't have to be safe, and if the workers decide they want to organize, we can fire them right now. We can get over all of this, we pole vault over all those issues and produce where it is cheaper. We are not encumbered by our ability to pollute the air and water. We can fire kids and ship the products to America and have American consumers go to Kmart, Wal-Mart, Sears, or Target, in Argentina or in Brazil or in Mexico, and buy that product, which was in fact produced by someone who took a job from the neighbor of that consumer.

This country has not decided whether there is an admission price in the American marketplace. We sign all these trade agreements, and none of them is complied with at all. This country has no nerve, no backbone, no will to stand up for its own economic interests. I am not suggesting that we build walls around our country, but I am saying we ought to pay some attention to the basic conditions of produc-

tion that we fought over for 100 years. If corporations decide, we can now go to Bangladesh or Sri Lanka or China and ignore all of those issues and have people fired if they try to organize for collective bargaining, then there is something fundamentally wrong.

Question: Why is it that in this country we imported nearly 600,000 Korean cars from the country of Korea in the past year but are only able to sell 3800 U.S. cars in Korea? Answer: Because the Koreans don't want to buy American cars in Korea. They want to ship all of their cars to America, but they don't want U.S. cars to be sold in Korea. And our country says that is OK; we will not do anything about that. Our country doesn't have the nerve or the will to stand up for its own economic interest.

We have a dispute with Europe over beef, so our ranchers and farmers and others suffer as a consequence of that disparity. Up in New Hampshire, American negotiators decided to get tough with the Europeans, by applying retaliatory tariffs. So what did they do? They decided they were going to impose tariffs on truffles, goose liver, and Roquefort cheese. There is going to scare the devil out of our trade adversaries—a trade adversary that is talking advantage of us. We are going to slap tariffs on truffles, goose liver and Roquefort cheese.

This country has to decide finally to stand up for its economic interests.

I haven't talked about Japan. We have had a $60 billion to $80 billion trade deficit with Japan every single year, year after year after year. They are guilty of horribly unfair trade with this country. The same is true with China. It is even worse with China. There are massive copyright violations by us and we want to use the will, or the nerve to stand up for this country's economic interests.

If you all read the papers last week about textiles coming in from China, the first month the limits were off on textiles, you see what is happening to the country. There is a horrific increase in trade deficit with China.

President Bush wants to travel around the country and talk about Social Security, a Social Security system that will remain solvent until George W. Bush is 106 years old. There is no crisis there. But there is a crisis with our trade deficit. And it requires—demands in my judgment—that this President and this Congress get serious.

I am sending another letter to the President, suggesting that he hold an emergency summit on the trade deficit.

This is a serious, abiding crisis that weakens our country significantly. It is all about jobs.

We are going to debate the budget next week. There is no social program as important as a good job that pays well. That is just a fact. The fact is, good jobs are marching out of this country at an alarming rate and they are moving to parts of the world where those who are producing products find they can hire people for 20 cents an hour or 30 cents an hour.

Nobody wants to hear these questions much about trade, but it is gripping when you understand what is actually happening.

I talked on the floor about the young women dying in the manufacturing plants in China. How about the young children who are making rugs and carpets who have their fingertips burned with gunpowder? They put gunpowder on their fingertips, light it with a match in order to create scarring on
Mr. PRYOR. Mr. President, I rise today to talk about something dear and near to my heart, about the Little Rock Nine.

I want to mention to the Senate that as a young person, I was a little kid who lived down in Little Rock, Arkansas. I remember sitting in my parents’ room, listening to the news reports about the Little Rock Nine, and I remember being filled with a sense of pride and a sense of fear and a sense of anxiety.

Before I do, I want to mention that we in Arkansas and everyone in the Senate joins with you, Mr. President, in your prayers and our prayers for the very tragic, bad news coming out of Atlanta right now. We want you to know that anything we can do, we want to try to help in every way we can.

COMMEMORATIVE COIN IN HONOR OF THE LITTLE ROCK NINE

Mr. PRYOR. Mr. President, thank you for allowing me a few moments to speak about something I care very deeply about; that is, I am going to introduce a bill that would create a commemorative coin in honor of the 50th anniversary of desegregation of Little Rock Central High School in Little Rock, AR.

The bill I am introducing with my colleague, Senator BLANCHE LINCOLN, is a companion measure to the work of our Arkansas colleague, Arkansas Congressman Vic SNYDER. Once again, Congressman SNYDER has shown himself to be quiet and effective and really able to get things done over in the House, not just for our States but for our Nation. Imitation is the greatest form of flattery, and I am here today to introduce identical language to Congressman SNYDER’s bill. I want to see that 319 members of the House of Representatives cosponsored Congressman SNYDER’s bill. It is my hope that I will have similar success in the Senate.

The bill requires the Secretary of the Treasury to design and mint a coin in commemoration of the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock. I believe this will serve as a timeless reminder of an event that provided a landmark change in our school system. Let me remind my colleagues about the desegregation crisis that took place at Little Rock Central High School and why this event is so important.

In 1952, the Little Rock school board wanted to follow the rule of law and took the Brown v. Board of Education, Topeka, KS, case seriously, that momentous decision from 1954. When the U.S. Supreme Court used the phrase “all deliberate speed,” the Little Rock school board thought that it could begin to comply with the Supreme Court’s ruling beginning in the 1957 school year.

In 1957, nine black teenagers integrated the all white Central High School in Little Rock, Ark., testing the Brown v. Board of Education Supreme Court decision that ultimately ended legal segregation in schools.

As these nine teenagers attempted to enter the doors of Central High, they were confronted with an angry, rampaging mob. President Eisenhower ordered Federal troops to Little Rock to end the brutal intimidation campaign mounted against the black students and to uphold Brown and Federal law. That year, “I Have a Dream” was Ernest Green, Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls LaNier, Minnijean Brown Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair and Melba Pattillo Beals—changed the course of American history by claiming and exercising the right to receive an equal education.

They were helped in this important endeavor by civil rights pioneer Daisy Bates who raised public awareness of their plight. Of her experience, Melba Pattillo Beals recalls: I had to become a warrior. I had to learn not how to dress the best but how to get from that door to the end of the hall without dying.

Another one of those students was Ernest Green, who best explains why the Little Rock Nine sacrificed their lives, their right to receive an equal education, was one of the defining moments of the Civil Rights Movement and changed American history by providing a foundation upon which to build greater equality.

I hope that the Senate will join me in passing this measure to commemorate the Little Rock Nine and the desegregation of Little Rock Central High School.

I urge my colleagues to cosponsor this bill and allow the measure to move forward in an effort to ensure that these extraordinary achievements are recorded and shared for future generations.

Mrs. LINCOLN. Mr. President, today I rise, along with my friend, colleague and fellow Arkansan, Senator MARK OF THE LITTLE ROCK NINE

Mrs. LINCOLN. Mr. President, today I rise, along with my friend, colleague and fellow Arkansan, Senator MARK OF THE LITTLE ROCK NINE and the desegregation of Little Rock Central High School and its contribution to civil rights in America; bear the year “2007”; and include the inscribed words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”, which means out of many, one. Little Rock Central High School helped us to become one nation.

To cover the cost of the coins, the Secretary of Treasury shall sell the coins at face value with a surcharge to cover the cost of production and design. The coin will bear the following inscription: “In God We Trust” and “E Pluribus Unum”. The coin will be minted with identical language to Congressman SNYDER’s bill. It is my hope that I will have similar success in the Senate.

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Mr. PRYOR. To introduce a bill to direct the Treasury to mint a commemorative coin in celebration of the 50th anniversary of the integration of Central High School in Little Rock, AR.

Our colleagues in the House have led the way in this effort with a bill written by Representative Vic Snyder and co-sponsored by the entire Arkansas delegation.

On September 2, 1957, nine African-American students made their way to the front doors of Central High School in the city of Little Rock, AR. In modern times, this moment was just one of many in the Little Rock community that they would confront their own personal discrimination and challenges. Their principled stand served the State and the Nation forward as it marched toward greater equality for all.

What happened in Little Rock almost 50 years ago is not only a testament to the Little Rock Nine, but it is also a testament to those who supported them. It is a testament to the people of Little Rock of all hues who decided that they would confront their own consciences. And it is a testament to those who, upon reflecting on the matter, decided that doing what is right was worth the cost.

The decision to move this Nation forward makes me proud to be an Arkansan. It makes me proud to be an American. That’s why I’m especially pleased to introduce this legislation to direct the Treasury to issue these commemorative coins. This bill is a small token of recognition of the gift that the Little Rock nine and the entire Little Rock community has given to this Nation.

I believe that someone who was there can do it better than I can. At the 20th anniversary of the integration of Central High, Ralph G. Brodie, the ’57-58 student body president, spoke at a special ceremony where he paid tribute to the Little Rock Nine. He addressed the three of the Little Rock Nine who were present saying: “You’ve done much to assure the rights of others. You were acts of courage, and I salute you.”

I join him. I salute the Little Rock Nine and I salute those, both black and white, who successfully integrate Central High School.

I suggest the absence of a quorum.

Mr. LEVIN. Mr. President, I am disappointed to see the Protection of Lawful Commerce in Arms Act reintroduced. I supported the successful effort to defeat the gun industry immunity legislation during the 108th Congress and I continue to oppose the legislation.

The misnamed “Protection of Lawful Commerce in Arms Act” would rewrite well-accepted principles of liability law, providing gun industry legal protections not enjoyed by other industries. In addition, this bill would set a dangerous precedent by terminating a wide range of pending and prospective civil cases against members of the gun industry. It would give a single industry broad immunity from civil liability and deprive many victims of gun violence with legitimate cases of their day in court.

While most gun dealers and manufacturers conduct their business responsibly, this gun industry immunity legislation would provide protection from liability even in cases where gross negligence or recklessness lead to someone being injured or killed.

The reintroduction of this bill comes after the Supreme Court recently allowed a civil suit against members of the gun industry to progress in California. Reportedly, the plaintiffs in this case allege that the gun manufacturer was involved in distributing guns to dealers who were likely to sell them illegally or through largely unregulated gun shows. Judge Richard Paez of the Ninth Circuit wrote of this case: The social value of manufacturing and distributing guns without taking basic steps to prevent these guns from reaching illegal purchasers and possessors cannot outweigh the public interest in keeping the guns out of the hands of those who in turn use them in crimes.

Last year, a decision that marked victory for the 2002 Washington, DC, area sniper shooting victims, Bushmaster Firearms, manufacturer of the XM-15 assault rifle used in the sniper attacks, agreed to pay $550,000 in damages for negligence leading to criminal violence in connection with the shooting spree.

According to reports, Bushmaster continued to sell firearms, including the XM-15 assault rifle used in the sniper attacks. Bull’s Eye Shooter Supply in Tacoma, WA, even after several ATF audits documented the dealer’s inability to responsibly account for its inventory of weapons. Reports indicate that 238 guns had gone missing from Bull’s Eye’s inventory and over 50 had been traced to criminal acts since 1997. The victims of the sniper shootings would have lost their ability to sue Bushmaster Firearms and Bull’s Eye Shooter Supply had the gun industry immunity bill become law during the 108th Congress.

If it is enacted, this bill would substantially weaken the legal rights of gun violence victims. In addition, other industries will almost certainly line up for similar protections. This is unwise legislation and it should not be adopted.

ADDITIONAL STATEMENTS

HOOSIER ESSAY CONTEST WINNERS

Mr. LUGAR. Mr. President, I rise today to share with my colleagues the winners of the 2004-2005 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for eighth grade students in my home State. The purpose of this contest was to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently, craft an essay responding to the assigned theme. I, along with my friends at the Indiana Farm Bureau and Farm Bureau Insurance Companies, and pleased with the annual response to this contest and the quality of the essays received over the years.

I congratulate Thomas (Trey) Dunn III of Jay County and Brittany Lechner of Daviess County as winners of this year’s contest. Likewise, I include the names of all of the district and county winners of the 2004-2005 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

I ask that the following materials be printed in the Record.

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

THE PERFECT PIZZA BEGINS ON HOOSIER FARMS

Set for the kick-off,

We work as a team.

Joining together,

To accomplish our dream,

We’ll celebrate the victory.

It’s time to begin.

The perfect Hoosier pizza,

Will help your body win!

BUZZ! “The final in tonight’s football contest is Junk Food 0, Hoosier Pizza 100 percent healthy! Stay tuned, we’ll recap tonight’s game and we’ll be joined by the workhorses on the team; the 4 basic food groups.”

“Mr. Fruit A. Veg, the second quarter defender for similar protections. This is unwise legislation and it should not be adopted. 

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BUZZ! ‘‘The final in tonight’s football contest is Junk Food 0, Hoosier Pizza 100 percent healthy! Stay tuned, we’ll recap tonight’s game and we’ll be joined by the workhorses on the team; the 4 basic food groups.’’

‘‘Mr. Grain. I thought your unit looked especially good in the first quarter.’’ ‘‘Indiana farmers prepared Wil Wheat, Otis Oat, and Sam Soybean well for this game. They mixed it up right away and they were the gluten that held us together. They rolled out with a great foundation and used their carbohydrates to keep us energized.’’

‘‘Mr. Fruit A. Veg. the second quarter definitely belonged to your members.’’ ‘‘I thought the Tomato triplets were really firm tonight, as grown by our Indiana farmers. They played a smashing role spreading the defense all over the field. The Mushrooms and Peppers sliced their way through tonight also. Vitamins A and C worked hard at keeping us focused and alert throughout.’’

‘‘Mr. Meat, the third quarter was great!’’ ‘‘Thanks, Indiana farmers really came.
March 11, 2005

CONGRESSIONAL RECORD—SENATE

through with that lean, mean Beef and Pork. They definitely saved our bacon out there tonight! Their protein helped us out muscle the other guys."

Mr. Dairy: I don’t think you could top your fourth quarter.” — Indiana farmers landed us on top tonight! Ched Dar, Pro Valone, and Mott Zerella shredded our opponent’s game plan. "From the podium has been building strong bones and teeth all year."

"You heard it fans! Let’s celebrate a victory with our 100 percent healthy, Perfect Pizza team, prepared with pride on Hoosier farms."

THE PERFECT PIZZA BEGINS ON HOOSIER FARMS

(By Brittany Lechner, Daviess County)

You’re invited to my Indiana pizza party! All the ingredients for this meal are produced right here in the Hoosier state! First I will make the dough with flour from an Indiana wheat farm. Over 10,000 farms here grow wheat, generating over $91 million. There’s obviously plenty of wheat here.

Then I will create the sauce, beginning at Etienne’s Farm Market in Washington for tomatoes, peppers, and onions. This family farm has provided the local community with fresh fruits and vegetables for over 25 years. Next I will travel to Elnora for a package of two of Grahams mozzarella cheese from the company started by Robert Graham in 1928. This excellent cheese is known statewide.

Now come the sausage and pepperoni. The pigs that provide these toppings used to live right here on one of the many pig farms in Daviess County. After gathering the pizza ingredients, I turn to my side dishes. Doty Orchard, also in Daviess County, provides a couple of fresh peaches. A drink would be welcome, so choose a glass of fresh milk. Considering the many dairy farms in Indiana, milk is no problem for a drink.

Now that my pizza is in the oven and the peaches are sliced, let me show you just how nutritious a meal we have: My feast consists of two dairy servings, two vegetable/fruits, and one meat serving. Pretty healthy, if I do say so.

Altogether I think this pizza meal is a good source of nutrition and shows just how Indiana farmers keep us healthy.

2004–2005 District Essay Winners

District 1
Trevor Chrzan
Aubri Smeltzer

District 2
Clayton Gerig
Tiana Stiegeltz

District 3
Ty Shrontz
Malena Zook

District 4
Thomas (Trey) Dunn III
Jennifer Hunt

District 5
Carter Morgan
Olivia Leonard

District 6
Will Petrovic
Amanda Carter

District 7
Brandon Hall
Brittany Lechner

District 8
Peter Reding
Ashley Lentz

District 9
Scott Riedford
Alyssa Schmitt

District 10
Tevin Ewing
Madeline Smith

2004–2005 County Essay Winners

Adams: Clark Faurote and Jane Goebel
Allen: Tianna Stiegeltz
Bartholomew: Logan Pankratz and Ashley Lentz
Carroll: Malena Zook
Case: Ty Shrontz and Alesia Brown
Clark: Tevin Ewing and Madeline Smith (co-winner) Anna Trotter (co-winner)
Clay: Brandon Hall and Megan Vansickle
 Crawford: Corey Phipps and Tessa Weathers
Daviess: Brittany Lechner
Dearborn: Carter Grove and Becky Tyler
Decatur: Peter Reding
DeKalb: Clayton Gerig and Kassandra Wene
Dubois: Max Kitten and Lauren Reckehoff
Elkhart: Isaac Vining and Bretta Bachert
Fayette: Jacob Rude and Corinne Watson
Floyd: John Bolander and Lauren Knight
Franklin: Mike Johnston and Teresa Burger
Hendricks: Alison Koelling
Henry: Mitchell Halcomb and Amanda Carter
Jackson: Caleb Hackman and Courtney Robbins
Jasper: Jacob Egan and Marisa Mangas
Jay: Thomas (Trey) Dunn III and Jennifer Hunt
 Jennings: Kyle Hatfield and Linzi Firsch
Johnson: Joseph Clady and Alexis Bridges
LaGrange: Ryan Lewis and Kara Miller
Lake: Daniel Kipper and Kathryn Alleva
LaPorte: Jackson Troyol and Aubri Smeltzer
Marion: Michael Frost and Brynne Thompson
Monroe: Jill Parrott
Morgan: Olivia Leonard
Newton: Scott Shedrow and Caitlyn Yana
Posey: Justin Collins and Alyssa Schmitt
Putnam: Trevor Chrzan and Sabrina Tanner
St. Joseph: Jack Chartier and Rebecca Knabenshue
Scott: Brett Mayer and Morgan Means
Starke: Michael Okray and Katie Kensington
Sullivan: Travis Robbins
Switzerland: Beth Abbott
Tippecanoe: Elizabeth Byers
Tipton: Brock McVeigh and Stephanie Fidler
Vermilion: Carter Morgan and Rayven Randolph
Vigo: Nathan Thornton and Kayelene Linkenholt
Wabash: Neil Beyer and Addie Ratcliff
Warrick: Clay Wildt and Mackenzie Jester
Washington: Michael Baird
Wayne: Jake Sheard and Megan Jester
White: Zach Minnicus and Carrie Pirkins

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

CREDIT CARD COMPANY DISCLOSURES

• Mr. VOINOVICH. Mr. President, I would like to express my concerns about certain practices of the credit card industry. I am especially concerned about the disclosures credit card companies make to their customers. While I am pleased that the bankruptcy reform bill includes new disclosure obligations for credit card companies, I would like to see the Banking Committee examine the credit card industry and consider the need for further reform of the regulations governing the credit card industry.

Mr. SHELBY. Mr. President, through the course of the debate on the bankruptcy reform bill, it has become clear there are many Senators who have concerns about the numerous aspects of the credit card industry. I want to point out that I am aware of the Senator from Ohio, Mr. von Ahn, in particular. I want to indicate for the RECORD that I recognize these concerns and to note that I have had a long-standing interest in exploring these matters more deeply. Therefore, I am willing to commit to holding hearings in the Banking Committee later this year to examine the credit card industry and the need to reform credit card regulations. I believe the ranking member also shares my interest in holding hearings.

Mr. SABINAS. Chairman Shelby, I share your interest in holding hearings on the credit card industry and would hope that we might hear from all those Senators who have expressed an interest and may wish to testify before the committee.

Mr. VOINOVICH. Mr. President, I would like to thank the chairman and ranking member of the Banking Committee for their acknowledgment of my concerns. I also appreciate their interest in this matter and believe that these are serious issues that merit further attention. I look forward to working with the chairman and ranking member in examining these issues associated with practices in the credit card industry.

• Mrs. CLINTON. Mr. President, while I strongly believe that Congress should act to fix the problems in our bankruptcy system, I also believe that this bill is misguided and deeply flawed.

This bankruptcy bill fundamentally fails to accord with the traditional purposes of bankruptcy, which recognize that we are all better off when hard-working people who have suffered financial catastrophe get a “fresh start” and a second chance to become productive and contributing members of society. With the passage of this legislation, which makes obtaining this fresh start more expensive and more difficult, we are ensuring that many responsible Americans will continue to be buried under mountains of debt, and unable to take back control and responsibility for their lives.

Our Nation’s bankruptcy law developed out of a recognition that the world can be a competitive, often unforgiving place. Bankruptcy reform should therefore be directed toward creating a civil society in which valuing individual responsibility is not incompatible with admitting the enduring truth that sometimes bad things happen to responsible, hardworking people. Sometimes, conscientious Americans need help and support against forces that are too big for them to stand against alone. It should be about making sure that both large corporations and individual citizens are held to the same standards of responsibility and accountability.
This bill is flawed in a number of ways. But I want to begin by commenting on one of its most distressing elements. As many people know, I have long been concerned about the burdens placed on America’s families by a lack of health care insurance and rising health costs. In this bill, the Senate had an opportunity to take one important step to help citizens driven to the point of bankruptcy by unavoidable medical problems. Instead, the Senate rejected this opportunity to lighten the load of families dealing with the twin blows of medical and financial difficulties.

The Senate’s failure to act is all the more striking to me today, because I must submit this statement into the Record while attending to a medical situation in my own family. Fortunately, my family is well-insured, and we are not in danger of losing that coverage. I am deeply aware and profoundly grateful for the good fortune we enjoy in having access to quality medical care in the face of serious medical needs.

And I know that many American families are not so lucky. Indeed, among those Americans whose illnesses led to bankruptcy, 75.7 percent of them had insurance at the onset of the illness. Employees with serious long-term illnesses often lose their jobs, which means they also lose their health insurance.

Medical bankruptcy has skyrocketed in recent decades. In 1981, only 8 percent of personal bankruptcy filings were due to a serious medical problem. By contrast, a recent study by researchers from Harvard Law School and Harvard Medical School found that half of personal bankruptcies filed in the last 4 years, the global economy has become relentless. Workers are living with more employment insecurity, and many have to retrain mid-career to adjust to the changing dynamics of the American economy.

We are now a nation at war. And at a time when they are carrying the burden of sending loved ones off to war, military families have become the victims of payday loans charged at 400 percent interest, insurance scams, and other forms of financial chicanery that leave them economically devastated.

Yet this bill does nothing to help these responsible Americans who suddenly find themselves in dire financial straits. In fact, it makes things harder for these individuals to find refuge in bankruptcy. Why is the majority committed to making things harder?

Many of my colleagues on this side of the aisle have asked this question. They have received no real answer. So the bottom line is that this bill’s proponents, while touting the need for bankruptcy reform and accountability, are willing to address only part of the problem, dealing only with the most vulnerable in our society, and leaving the reform of corporate bankruptcies on the sidelines, requiring no additional accountability with respect to our Nation’s companies.

A number of my colleagues in the minority offered amendments in an effort to address many of these changed circumstances, but amendment after amendment was rejected. I simply cannot understand why the Republican majority gave instructions to its caucus to oppose any and all amendments, no matter how reasonable they were or the circumstances they were designed to address.

I find even more disturbing the fact that the majority refused to more appropriately address the special needs of our troops in the context of this legislation. I am baffled by the majority’s rejection of Senator Durbin’s “G.I. Protection Amendment,” which I was proud to cosponsor, and which was also supported by the Military Officers Association of America, the Air Force Sergeants Association, the National Association for the Uniformed Services, and the Enlisted Association of the National Guard of the United States, among other organizations. I am further baffled that the Senate’s leadership didn’t cosponsor this amendment to better protect our men and women in uniform and their families. It is troubling and incomprehensible to me that most of my colleagues would refuse to vote for it.

And while refusing to support an amendment that would have helped military families in a meaningful way, the majority of the Senate had no problem rejecting an amendment that was designed to make it harder for millionaires to hide their assets from creditors, even after filing for bankruptcy.

Even though there appears to be a near universal recognition that the bankruptcy law contains a major loophole that enables Americans who file for bankruptcy to shield their assets through what are called “asset protection trusts,” a majority of the Senate rejected a meaningful amendment to close that loophole.

To make matters even worse, yesterday the Senate, again led by the Republican leadership, rejected an amendment offered by Senator Kennedy, which would have outlawed unlimited homestead exemptions. This would have prevented the wealthiest Americans from avoiding responsibilities by hiding their assets from creditors.

The Senate also rejected an amendment that was intended to reinsert language that had been in the legislation the Senate passed in 2001, which would have prevented the discharge in bankruptcy of all liability for violation of protective orders and violent protests of providers of lawful services, such as reproductive health services.

Even though this language was in the 2001 Senate-passed bill, it is conspicuously absent from the bankruptcy bill that the Senate is now considering 4 years later.

In other words, bill proponents, led by the Republican leadership, have called for additional significant financial accountability, but not if you are a corporate entity, not if you are wealthy, and not if you organize that a court has found to have violated the law and infringed upon the rights of others.

Almost without exception, the majority has voted across the board against these and other amendments, apparently under strict orders from the Republican leadership to oppose any and all amendments, regardless of whether the amendments were designed to help our troops, to remove loopholes for millionaires, to help families facing medical and financial crisis. This is the antithesis of the American and family values that many of my colleagues so like to talk about.

This legislation, especially after refusal, after refusal, after refusal to support amendments to improve it, is unfair and unjust.

In short, the legislation that the Senate is voting on today, could have, with more careful and good-faith consideration, been a vehicle in which we could have thoughtfully addressed abuses in
the bankruptcy process by both consumers and corporations. Unfortunately, the Senate leadership chose to go down a different road.

Because of unforeseen and unavoidable circumstances, I will not be present when the Senate votes on final passage of this bill today. But were I able to be here, I would vote no, because this bill is clearly not in the best interests of the American people.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendment:

S. 263. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG, from the Committee on the Budget, without amendment:

S. Con. Res. 18. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. LANDRIEU (for herself, Mr. JOHNSON, Mr. BAUCUS, Mrs. LINCOLN, and Mr. SHEBY):

S. 603. 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 Banking, Housing, and Urban Affairs.

By Mr. CRAIG (for himself, Mr. BINGAMAN, Ms. COLLINS, Mr. BURR, Mr. HARKIN (for himself), and Mr. SNOWE):

S. 604. A bill to amend title XVIII of the Social Security Act to authorize expansion of Medicare coverage of medical nutrition therapy services; to the Committee on Finance.

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

S. 605. A bill to amend the Internal Revenue Code of 1986 to restore the phaseout of personal exemptions and the overall limitation on itemized deductions, and to create a trust to fund setting of education programs; to the Committee on Finance.

By Mr. THUNE (for himself, Mr. INHOFFE, Mr. Voinovich, and Mr. BOND):

S. 606. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation’s energy independence, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:


By Mr. HARKIN:

S. 608. A bill to create an independent office in the Department of Labor to advocate on behalf of pension participants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself and Mr. KENNEDY):

S. 609. A bill to amend the Public Health Service Act to increase the provision of scientifically sound information and support services to patients receiving a positive test diagnosis for Down syndrome or other prenatally diagnosed conditions; to the Committee on Health, Education, Labor, and Pensions.

By Ms. TALENT (for herself, Mrs. LINCOLN, Mr. THUNE, Mr. JOHNSON, Mr. COLEMAN, Mr. SALAZAR, Mr. HARKIN, Mr. HAGEL, and Mr. BOND):

S. 610. A bill to amend the Internal Revenue Code of 1986 to provide for a small agri-biodiesel producer credit and to improve the small ethanol producer credit; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GREGG:

S. Con. Res. 18. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010; from the Committee on the Budget; placed on the calendar.

By Mr. CHAMBLISS (for himself and Mr. NELSON of Nebraska):

S. Con. Res. 18. An original concurrent resolution expressing the sense of the Congress regarding the importance of life insurance and recognizing and supporting National Life Insurance Awareness Month; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 132

At the request of Mr. SMITH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 328

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 328, a bill to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000.

S. 359

At the request of Mr. CRAIG, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program and the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 445

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 445, a resolution to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs.

S. 471

At the request of Mr. SPRINGER, the names of the Senator from Vermont (Ms. LEVY) and the Senator from Illinois (Mr. DURBIN), the Senator from Hawaii (Mr. INOUYE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 578

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 578, a bill to better manage the national instant criminal background check system and terrorism marches.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself, Mr. JOHNSON, Mr. BAUCUS, Mrs. LINCOLN, and Mr. SHEBY):

S. 603. 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 Banking, Housing, and Urban Affairs.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Rental-Purchase Agreement Act of 2005”.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the rental-purchase industry provides a service that meets and satisfies the demands of many consumers;

(2) each year, approximately 2,300,000 United States households enter into rental-
purchase transactions, and over a 5-year period, approximately 4,900,000 United States households will do so; (3) competition among the various firms engaged in the manufacture of agricultural products by a consumer for an initial period of time, during which the consumer becomes contractually obligated under a rental-purchase agreement.

(a) Initial payment.—The term ‘initial payment’ means the amount to be paid before or at the time of delivery of the property covered by the agreement if delivery occurs after consummation, including—

(A) the rental payment;

(B) service, processing, or administrative charges;

(C) any delivery fee;

(D) refundable security deposit;

(E) taxes;

(f) mandatory fees or charges; and

(G) any other fees or charges agreed to by the consumer.

(b) Merchant.—The term ‘merchant’ means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom the initial payment by the consumer under the agreement is payable.

(c) Payment schedule.—The term ‘payment schedule’ means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments. For purposes of this section, the ‘periodic payment’ means the total payment made for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

(d) Property.—The term ‘property’ means property that is not real property under the laws of the State in which the property is located when it is made available under a rental-purchase agreement.

(e) Retail payment.—The term ‘retail payment’ means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

(f) Rental period.—The term ‘rental period’ means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the initial amount and any applicable taxes for such period.

(g) Rental-purchase agreement.—(A) In general.—The term ‘rental-purchase agreement’ includes—

(i) any service, processing, or administrative charges;

(ii) fees and charges for optional products and services offered in connection with a rental-purchase agreement.

(b) Excluded items.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

(1) any fee, charge, or other amounts, fees, or other charges, required to be paid by the consumer;

(2) the amount of the cash price that is the subject of the rental-purchase agreement.

(c) Consumer.—The term ‘consumer’ means a natural person who is offered or enters into a rental-purchase agreement.

(d) Date of consummation.—The term ‘date of consummation’ means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

(e) Initial payment.—The term ‘initial payment’ means the amount to be paid before or at the time of delivery of the property covered by the agreement if delivery occurs after consummation, including—

(A) the rental payment;

(B) service, processing, or administrative charges;

(C) any delivery fee;

(D) refundable security deposit;

(E) taxes;

(f) mandatory fees or charges; and

(G) any other fees or charges agreed to by the consumer.

(2) Merchant.—The term ‘merchant’ means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom the initial payment by the consumer under the agreement is payable.

(3) Payment schedule.—The term ‘payment schedule’ means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments. For purposes of this section, the ‘periodic payment’ means the total payment made for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

(4) Property.—The term ‘property’ means property that is not real property under the laws of the State in which the property is located when it is made available under a rental-purchase agreement.

(5) Retail payment.—The term ‘retail payment’ means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

(6) Rental period.—The term ‘rental period’ means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the initial amount and any applicable taxes for such period.

(7) Rental-purchase agreement.—(A) In general.—The term ‘rental-purchase agreement’ includes—

(i) any service, processing, or administrative charges;

(ii) fees and charges for optional products and services offered in connection with a rental-purchase agreement.

(b) Excluded items.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

(1) any fee, charge, or other amounts, fees, or other charges, required to be paid by the consumer;

(2) the amount of the cash price that is the subject of the rental-purchase agreement.

(c) Consumer.—The term ‘consumer’ means a natural person who is offered or enters into a rental-purchase agreement.

(d) Date of consummation.—The term ‘date of consummation’ means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

(e) Initial payment.—The term ‘initial payment’ means the amount to be paid before or at the time of delivery of the property covered by the agreement if delivery occurs after consummation, including—

(A) the rental payment;

(B) service, processing, or administrative charges;

(C) any delivery fee;

(D) refundable security deposit;

(E) taxes;

(f) mandatory fees or charges; and

(G) any other fees or charges agreed to by the consumer.

(2) Merchant.—The term ‘merchant’ means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom the initial payment by the consumer under the agreement is payable.

(3) Payment schedule.—The term ‘payment schedule’ means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments. For purposes of this section, the ‘periodic payment’ means the total payment made for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

(4) Property.—The term ‘property’ means property that is not real property under the laws of the State in which the property is located when it is made available under a rental-purchase agreement.

(5) Retail payment.—The term ‘retail payment’ means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

(6) Rental period.—The term ‘rental period’ means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the initial amount and any applicable taxes for such period.

(7) Rental-purchase agreement.—(A) In general.—The term ‘rental-purchase agreement’ includes—

(i) any service, processing, or administrative charges;

(ii) fees and charges for optional products and services offered in connection with a rental-purchase agreement.

(b) Excluded items.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

(1) any fee, charge, or other amounts, fees, or other charges, required to be paid by the consumer;

(2) the amount of the cash price that is the subject of the rental-purchase agreement.

(c) Consumer.—The term ‘consumer’ means a natural person who is offered or enters into a rental-purchase agreement.

(d) Date of consummation.—The term ‘date of consummation’ means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.
set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement;

(7) the amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement;

(8) the total cost, using that term, and a brief description, such as ‘This is the amount that you will pay the merchant if you make all payments necessary to acquire ownership of the property.’;

(9) a statement of the right of the consumer to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good reparable condition on expiration of any lease term; and

(10) substantially the following statement: ‘other important terms: See your rental-purchase agreement for additional important information on early termination proceedings, purchase option rights, responsibilities for loss, damage, or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.’

(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall—

(1) be segregated from other information at the beginning of the rental-purchase agreement;

(2) contain only directly related information; and

(3) be identified in boldface, upper-case letters as follows: IMPORTANT RENTAL-PURCHASE DISCLOSURES:

(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

(1) In General.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement;

(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

(A) the merchant clearly and conspicuously discloses in writing to the consumer before the consummation of the rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement;

(B) the consumer signs an affirmative written request for such coverage after receiving the disclosures required under paragraph (1) and subparagraph (A) of this paragraph;

(d) ACCURACY OF DISCLOSURE.—

(1) In General.—The disclosures required to be made under subsection (a) shall be accurate on the subject of the rental-purchase transaction, in that each component of such coverage before the consummation of the rental-purchase agreement;

(2) INFORMATION SUBSEQUENTLY RENDERED INCORRECT.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

SEC. 1005. OTHER AGREEMENT PROVISIONS.

(a) In General.—Each rental-purchase agreement shall—

(1) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibilities of the merchant or consumer;

(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibilities of the merchant or consumer;

(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

(4) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property.

(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from exercising a right to repossession during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the right of the consumer to reinstate or cease paying the installment price under subsection (a)(4)(B).

SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

(a) In General.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental-purchase agreement, and upon payment of any past due payments and fees, as permitted by regulation of the Board.

(b) Payment of Total Cost.—The consumer shall acquire ownership of the rental-purchase property upon payment of the total cost of the rental-purchase agreement, as defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require a consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

(d) Transfer of Ownership Rights.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as applicable, the merchant shall—

(1) deliver, or mail to the last known address of the consumer, such documents or other instruments which the Board has determined, by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

SEC. 1007. PROHIBITED PROVISIONS.

A rental-purchase agreement may not contain—

(1) a confession of judgment;

(2) a negotiable instrument;

(3) a security interest or any other claim of a property interest in any goods, except those goods, the use of which is provided by the merchant pursuant to the agreement;

(4) a wage assignment;

(5) a provision requiring the waiver of any legal claim or remedy created by this title or any other provision of Federal or State law;

(6) a provision requiring the consumer, in the event that the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

(A) the fair market value of the property, as determined by regulation of the Board;

(B) the fair market value of the property, as determined by regulation of the Board;
(B) any early purchase option amount provided in the rental-purchase agreement; or

(c) the actual cost of repair, as appropriate.

(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the dwelling of the consumer or other premises without obtaining the consent of the consumer, or to commit any breach of the peace in connection with the repossessing of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

(8) a provision requiring the purchase of insurance to cover the property that is the subject of the rental-purchase agreement, except as permitted by regulation of the Board; or

(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remained unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

Upon request of a consumer, a merchant shall provide a statement of the account of the consumer. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements requested in excess of 4 times during that 12-month period.

SEC. 1010. MENTIONS.

(a) RENEGOTIATIONS.—For purposes of this section, a ‘renegotiation’ occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures under this title, except as provided in subsection (c).

(b) EXTENSIONS.—For purposes of this section, an ‘extension’ is an agreement by the consumer and the merchant to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

(c) EXCEPTIONS.—New disclosures under this title are not required for the following, even if they meet the definition of a renegotiation or an extension under this section:

(1) revised payments;

(2) a deferment of 1 or more payments;

(3) the extension of a rental-purchase agreement;

(4) the substitution of property with property that has a substantially equivalent or greater economic value, provided that the rent or rental-purchase cost does not increase.

(5) the deletion of property in a multiple-item agreement;

(6) a change in the rental period, provided that the rental purchase cost does not increase.

(7) an agreement resulting from a court proceeding.

(8) Any other event described in regulations prescribed by the Board.

SEC. 1011. RENTAL PURCHASE DISCLOSURES.

(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on, or next to, the item or set of items a card, tag, or label that clearly and conspicuously disclose—

(1) a brief description of the property;

(2) whether the property is new or used;

(3) the cash price of the property;

(4) the amount of each rental payment;

(5) the total number of rental payments necessary to acquire ownership of the property; and

(6) the rental-purchase cost.

(b) FORM OF DISCLOSURE.—

(1) IN GENERAL.—A merchant may make the disclosures required by subsection (a) in the form of a sign, sticker, log which is readily available to the consumer at the point of rental if the merchandise is not displayed in the showroom of the merchant, or if displayed in such a manner that it is impractical due to the size of the merchandise.

(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term ‘clearly and conspicuously’ means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

SEC. 1012. CIVIL LIABILITY.

(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for in section 1014.

(b) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the disclosures required by this section shall be used in any advertisement in any medium, and no audio and/or visual technique shall be used that is likely to obscure or detract significantly from the communication of the required disclosures.

SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to conform to any requirement of this title, to prevent its circumvention, and to facilitate compliance with its requirements, is liable to such consumer as provided for in section 1014.

(b) PATTERN OR PRACTICE OF VIOLATION.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

(1) an order to cease and desist from such practices; and

(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

SEC. 1014. LIABILITY OF ASSIGNEES.

(a) ASSIGNES INCLUDED.—For purposes of section 1013 and this section, the term ‘merchant’ includes an assignee of a merchant.

(b) LIABILITIES OF ASSIGNES.—

(1) APPARENT VIOLATION.—An action under section 1012 or 1013 against this title which may be brought against an assignee, only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

(c) INVOLUNTARY ASSIGNMENT.—An assignee has no liability under this section in a case in which the assignment is involuntary.

(d) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

(e) PROOF OF DISCLOSURE.—An action by or against an assignee, the consumer’s written acknowledgment of receipt of a disclosure, or a certificate of truth and accuracy, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

SEC. 1015. REGULATIONS.

(a) IN GENERAL.—The Board shall prescribe regulations, as necessary to carry out this title, to prevent its circumvention, and to facilitate compliance with its requirements.

(b) MODEL DISCLOSURE FORMS.—

(1) BOARD AUTHORITY.—The Board may publish model disclosure forms and clauses for companion rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by simplifying the technical nature of the disclosures.
“(2) CONTENT.—In devising forms described in paragraph (1), the Board shall consider the use by merchants of data processing or similar automated equipment.

“(3) USE OF COMPUTERIZED SOFTWARE.—Nothing in this title may be construed to require a merchant to use any model form or clause published by the Board under this section.

“(4) COMPLIANCE.—A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

“(A) uses any appropriate model form or clause published by the Board under this section; or

“(B) uses any such model form or clause, and omits any information which is not required by this title or rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

“(c) EFFECTIVE DATE OF REGULATIONS.—

“(1) IN GENERAL.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months.

“(2) AUTHORITY TO MODIFY.—The Board may, at its discretion—

“(A) lengthen the period of time described in paragraph (1) to permit merchants to adjust to accommodate new requirements; or

“(B) shorten that period of time, if the Board makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices.

“(3) VOLUNTARY COMPLIANCE.—Notwithstanding standing paragraph (1) or (2), a merchant may comply with any newly prescribed disclosure requirement prior to its effective date.

“SEC. 1016. ENFORCEMENT.

“(a) FEDERAL ENFORCEMENT.—Compliance with this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Commission and the Board as set forth in that Act are available to the Commission to enforce compliance by any person with the requirements of this title.

“(b) STATE ENFORCEMENT.—Federal regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent with a provision of this title, the Board shall—

“(1) remove the action to the appropriate United States district court, if it was not originally brought there; and

“(ii) be heard on all matters arising in the action; and

“(C) file a petition for appeal.

“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL VIOLATION.

“Whoever willfully and knowingly gives false or inaccurate information, or fails to provide information which is required to disclose under the provisions of this title or any regulation issued under this title shall be subject to the penalty provisions as provided in section 112.

“SEC. 1018. RELATION TO OTHER LAWS.

“(a) RELATION TO STATE LAW.—

“(1) NO EFFECT ON CONSISTENT STATE LAWS.—For purposes of subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope, or applicability of the laws of any State relating to rental-purchase agreements, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

“(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed by the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent with a provision of this title, the Board shall—

“(1) remove the action to the appropriate United States district court, if it was not originally brought there; and

“(B) shorten that period of time, if the Board makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices.

“(3) USE NOT MANDATORY.—An action to enforce the provisions of this title or any regulation issued under this title shall not be required to comply with any provision of this title, and to the extent that those laws are inconsistent with any provision of this title, the action may be heard on all matters arising in the action; and

“(C) file a petition for appeal.

“SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

“No civil liability or criminal penalty imposed under this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase agreement, or any agency, State or political subdivision thereof, or any agency of a State or political subdivision thereof;

“SEC. 1020. COMPLIANCE DATE.

“Compliance with this title shall not be required until 6 months after the date of enactment of this Act, except that any provision included in this Act that becomes effective prior to 6 months after the date of enactment may comply with this title at any time after such date of enactment.

By Mr. CRAIG (for himself, Mr. BINGHAM, Ms. COLLINS, Mr. BURR, Mr. DURBIN, and Ms. SNOWE):
It's not a welcoming place—it's cold and icy; vast and empty... even the Caribou didn't notice our presence. But beneath the icy tundra is one of the largest oil fields in the world—an oil field so vast it could power the State of South Dakota for centuries.

This week the Senate is moving forward on legislation to explore ANWR. This is just one piece of finally passing a national energy policy and reducing our dependence on foreign sources of oil.

We cannot act fast enough: This week gas prices hit record highs. And with oil hovering around $55 per barrel and threatening to move even higher, it's critical that the Senate act to reduce America's dependence on foreign sources of oil.

ANWR is one piece of the solution. But equally important—and even more important to my State of South Dakota—is investing in renewable fuels like ethanol.

It is time for the United States Senate to pass the Renewable Fuels Standard.

The Renewable Fuels Standard has languished for too long. Despite strong bipartisan support and private-sector agreements, past Congresses have failed to pass a national energy policy that includes a Renewable Fuels Standard. Now, we have another opportunity.

This legislation has a special importance to my State. South Dakota is a heavy oil producing State, and the United States Senate will be the fifth largest producer of ethanol. The market for ethanol has breathed new life into the small towns and small farms that dot the prairies of South Dakota. When driving through the rural counties of South Dakota, it's not unusual to observe the silos and storage tanks of an ethanol plant silhouetted against the prairie horizon. In many ways, the ethanol industry and its physical manifestations have become a part of the rural American identity.

Make no mistake about it: South Dakota's farmers are relying on the passage of the Renewable Fuels Standard to provide a surge in corn prices and a guaranteed market for their product.

This legislation is an improvement upon what passed out of the United States Senate last Congress. It increases the ethanol gallon requirement to 6 billion gallons, an increase of 1 billion gallons.

As we have a tremendous opportunity and responsibility to move this country forward. This legislation is vital to the ethanol industry, and will strengthen our economy, and our energy security. After so many failed attempts to pass this important legislation, I hope this Senate will finally finish the job and pass a Renewable Fuel Standard.

By Mr. HARKIN:

S. 608. A bill to create an independent office in the Department of Labor to advocate on behalf of pension participants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise to reintroduce a bill originally introduced in the 106th Congress that seeks to create an Office of Pension Participant Advocacy within the Department of Labor. When I first introduced this bill, it was just a good idea. Now, it has become an absolute necessity. Since 2000, unimaginable pension loss horror stories have cropped up in the wake of major corporate bankruptcies like Enron and WorldCom. People have lost their guaranteed pensions to mergers and acquisitions and to misinformation and have just plain lost any real benefit to their pensions if there were someon...
In the years that I have been working to fight age discriminatory practices sometimes used when converting from traditional defined benefit plans to cash balance pensions, I heard from a number of people who lost huge amounts of money in their pensions to "wear away" and realized what had happened to them until their nest egg was gone.

For example, take Larry Cutrone. He was one of thousands of people who figured out how much they lost in their cash balance conversion. He said that before AT&T converted his pension, it was valued at $350,000. After the conversion, in July 1997, the value dropped to $138,000. The calculation period for his pension was frozen at 1994–1996 salaries, so no value to his retirement account was added for any years he worked after the conversion.

He said:

In September 2001, I was "downsized" out of AT&T and decided to take my pension. I discovered that it translated into an annual income of just $23,444 instead of the $47,303 of AT&T and decided to take my pension. I worked after the conversion.

When the plans were changed over, workers were not informed that this could happen. They woke up one day and found out: they have less than 50 percent of what they thought they were going to get in their retirement.

Good public policy on pensions should never, ever have allowed that. People need someone on their side, because large corporations have plenty of people on their side.

The Office of Pension Participant Advocacy created in this bill would: actively seek out information and suggestions on pension policies and on Federal agencies which affect pension participants.

Evaluate the efforts of Federal agencies, businesses and industry to assist pension participants.

Identify significant problems faced by employees and retirees.

Make recommendations documenting significant pension problems and recommending legislative and regulatory solutions.

And examine existing pension plans and determine the extent to which current law serves pensioners in those plans.

We need one central place where pension participants can turn to when problems arise. We need one place in government whose sole obligation is to look after the general pension interests of employees and retirees concerning their pensions. We need an office that will be an advocate for pension participants. For that reason, I urge my colleagues to join me in supporting this critical legislation.}

B. Mr. TALENT (for himself, Mrs. LINCOLN, Mr. THUNE, Mr. JOHNSON, Mr. COLEMAN, Mr. SALAZAR, Mr. HARKIN, Mr. HAGEL, and Mr. BOND):

S. 610. A bill to amend the Internal Revenue Code of 1986 to provide for a small agri-biodiesel producer credit; and to improve the small ethanol producer credit; to the Committee on Finance.

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

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

S. 610

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

SECTION 1. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) In General—Subsection (a) of section 40A of the Internal Revenue Code of 1986 (relating to biodiesel used as a fuel) is amended to read as follows:

"(a) General rule.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture producer credit, plus

"(2) the biodiesel credit, plus

"(3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.

(b) Small Agri-Biodiesel Producer Credit Defined.—Section 40A(b) of the Internal Revenue Code of 1986 (relating to definition of biodiesel mixture credit and biodiesel credit) is amended by adding at the end the following new paragraph:

"(5) Small Agri-Biodiesel Producer Credit.—

"(A) In General.—The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel produced by such producer.

"(B) Qualified Agri-Biodiesel Production.—The term ‘qualified agri-biodiesel production’ means any agri-biodiesel which is produced by an eligible small agri-biodiesel producer, and which during the taxable year—

"(i) is sold by such producer to another person—

"(I) for use by such other person in the production of a qualified biodiesel mixture in such other person’s trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business (other than casual off-farm production),

"(III) who sells such agri-biodiesel at retail to another person and places such agri-biodiesel in the fuel tank of such other person, or

"(ii) is used or sold by such producer for any purpose described in clause (i),

"(C) Limitation.—The qualified agri-biodiesel produced by any producer for any taxable year shall not exceed 15,000,000 gallons.

(c) Definitions and Special Rules.—Section 40A of the Internal Revenue Code of 1986 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Definitions and Special Rules for Small Agri-Biodiesel Producer Credit.—

For purposes of this section—

(1) Eligible Small Agri-Biodiesel Producer.—The term ‘eligible small agri-biodiesel producer’ means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

(2) Aggregation Rule.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(b)) and all limited liability companies, partnerships, trusts, and similar entities (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

(3) Partnership, S Corporation, and Other Pass-Through Entities.—In the case of a partnership, trust, S corporation, or other pass-through entity, the limitations contained in subsection (b)(5)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

(4) Allocation.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

(5) Regulations.—The Secretary may prescribe such regulations as may be necessary—

(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

(6) Allocation of Small Agri-Biodiesel Credit to Patrons of Cooperative.—

(A) Election to Allocate.—

"(i) in general.—In the case of a cooperative organization described in section 1382(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the fair market value of business done with or for such patrons for the taxable year.

"(ii) form and effect of election.—An election under clause (i) shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

(B) Treatment of Organizations and Patrons.—

(1) Organizations.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

(2) Patrons.—The amount of the credit apportioned to patrons in the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or before the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or before the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or before the last day of the payment period (as defined by the organization determined under subsection for the taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

(1) such reduction, over
‘‘(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.’’. (d) SMALL AGRI-BIODIESEL PRODUCER CREDIT.—Clause (i) of section 469(d)(2)(A) of the Internal Revenue Code of 1986, as amended by section 2, is amended by striking ‘‘section 40A(a)(3)’’ and inserting ‘‘sections 40A(a)(3) and 40A(a)(3)’’. (e) SMALL AGRI-BIODIESEL PRODUCER CREDIT—CHANGES TO HEALTH CARE SPENDING.—Section 87 of the Internal Revenue Code of 1986, as amended by section 2, is amended by striking ‘‘and’’ at the end of paragraph (2) and by striking paragraph (3) and inserting the following new paragraphs: ‘‘(3) the biodiesel mixture credit determined with respect to the taxpayer for the taxable year under section 40A(a)(1), and (4) the biodiesel credit determined with respect to the taxpayer for the taxable year under section 40A(a)(2).’’ (f) CONFORMING AMENDMENTS.— (1) Paragraph (4) of section 40A(b) of the Internal Revenue Code of 1986 is amended by striking ‘‘this section’’ and inserting ‘‘paragraph (a) of this section’’. (2) The heading of subsection (b) of section 40A of such Code is amended by striking ‘‘AND BIODIESEL CREDIT’’ and inserting ‘‘Biodiesel Credit, and SMALL AGRI-BIODIESEL PRODUCER CREDIT’’.

(3) Paragraph (3) of section 40A(d) of such Code is amended by redesignating subparagraph (d) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph: ‘‘(C) PRODUCER CREDIT.—If— ‘‘(i) any credit is determined under subparagraph (a)(3), and (ii) any person does not use such fuel for a purpose described in subsection (b)(5)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such agri-biodiesel.’’. (g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2. IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—(a) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) of the Internal Revenue Code of 1986 (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ‘‘30,000,000’’ each place it appears and inserting ‘‘60,000,000’’.

(b) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) of the Internal Revenue Code of 1986 is amended by striking ‘‘subpart D’’ and inserting ‘‘subpart D, other than section 40A(a)(3).’’.

(c) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 of the Internal Revenue Code of 1986 (relating to income inclusion of alcohol and biodiesel fuels credits) is amended by redesignating paragraph (2) as paragraph (3) and by striking paragraph (1) and inserting the following: ‘‘(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40A(a)(1), ‘‘(2) the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40A(a)(2), and (d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
### Social Security

#### Social Security Revenues

- Fiscal year 2010: $6,111,689,000,000
- Fiscal year 2009: $5,124,000,000
- Fiscal year 2008: $4,853,000,000
- Fiscal year 2007: $4,587,000,000
- Fiscal year 2006: $4,405,000,000
- Fiscal year 2005: $4,039,000,000

#### Social Security Outlays

- Fiscal year 2010: $740,343,000,000
- Fiscal year 2009: $705,849,000,000
- Fiscal year 2008: $671,688,000,000
- Fiscal year 2007: $611,484,000,000
- Fiscal year 2006: $573,475,000,000
- Fiscal year 2005: $527,792,000,000

#### Social Security Budget Authority

- Fiscal year 2010: $740,343,000,000
- Fiscal year 2009: $705,849,000,000
- Fiscal year 2008: $671,688,000,000
- Fiscal year 2007: $611,484,000,000
- Fiscal year 2006: $573,475,000,000
- Fiscal year 2005: $527,792,000,000

### Budget Authority and Outlays

#### Appendices

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### Appropriations

#### Appropriations Summary

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### Federal Disability Insurance

The amounts of revenues of the Federal Disability Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

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### Federal Old-Age and Survivors Insurance Trust Fund

The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

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### Current Appropriations Act

The amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

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<td>2006</td>
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### Appropriations Summary

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Appropriations Authority</th>
<th>Outlays</th>
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<td>2005</td>
<td>$79,000,000,000</td>
<td>$79,000,000,000</td>
</tr>
</tbody>
</table>
Congressional Record — Senate  
March 11, 2005

(B) Outlays, $67,996,000,000.  
Fiscal year 2009:  
(A) New budget authority, $65,757,000,000.  
(B) Outlays, $65,757,000,000.

TITLE II—RECONCILIATION  
SEC. 201. RECONCILIATION IN THE SENATE.  
(a) SPENDING RECONCILIATION INSTRUCTIONS.—In the Senate, by June 6, 2005, the committees named in this section shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(1) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction sufficient to reduce outlays by $171,000,000 in fiscal year 2006, and $2,814,000,000 for the period of fiscal years 2006 through 2010.

(2) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to reduce outlays by $39,000,000 in fiscal year 2006, and $2,700,000,000 for the period of fiscal years 2006 through 2010.

(3) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction sufficient to reduce outlays by $8,000,000 in fiscal year 2006, and $2,576,000,000 for the period of fiscal years 2006 through 2010.

(4) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction sufficient to reduce outlays by $30,000,000 in fiscal year 2006, and $2,638,000,000 for the period of fiscal years 2006 through 2010.

(5) COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.—The Senate Committee on Environment and Public Works shall report changes in laws within its jurisdiction sufficient to reduce outlays by $14,000,000 in fiscal year 2006, and $112,000,000 for the period of fiscal years 2006 through 2010.

(6) COMMITTEE ON FINANCE.—The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to reduce outlays by $1,784,000,000 in fiscal year 2006, and $15,036,000,000 for the period of fiscal years 2006 through 2010.

(7) COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.—The Senate Committee on Health, Education, Labor, and Pensions shall report changes in laws within its jurisdiction sufficient to reduce outlays by $2,304,000,000 in fiscal years 2005 and 2006, and $8,576,000,000 for the period of fiscal years 2005 through 2010.

(b) REVENUE RECONCILIATION INSTRUCTIONS.—The Senate Committee on Finance shall report to the Senate a reconciliation bill not later than September 7, 2005 that consists of changes in laws within its jurisdiction sufficient to reduce the total amount of revenue lost by not modifying existing law for fiscal year 2006, and $70,154,000 for the period of fiscal years 2006 through 2010.

(c) INCREASE IN STATUTORY DEBT LIMIT.—The Committee on Finance shall report to the Senate a reconciliation bill not later than September 16, 2005, that consists solely of changes in laws within its jurisdiction to increase the statutory debt limit by $446,461,000,000.
would not increase the deficit for the period
of fiscal years 2006 through 2010.

SEC. 302. RESERVE FUND FOR ASBESTOS INJURY
LIABILITY.

In the Senate, if the Committee on the
Judiciary reports legislation, if an amendment is offered thereto or a conference report is
submitted thereto, that—
(1) compensates injured victims of asbes-
tos-related disease;
(2) does not compensate uninsured claim-
ants or those suffering from a disease not
shown to be asbestos-related disease;
(3) requires strict medical criteria; and
(4) is reasonably expected to remain funded
from non-Federal sources for the 50-year life
of the fund.

The Senate, if the Committee on Health,
Education, Labor, and Pensions reports a bill or
joint resolution, or an amendment is of-
ferred thereto or a conference report is
submitted thereto, that—
(a) provides for a national energy policy;
(b) requires strict medical criteria; and
(c) increases access to coverage through
mechanisms that decrease the growth of
health care costs.

SEC. 303. RESERVE FUND FOR THE UNINSURED.

In the Senate, if the Committee on Fi-
nance, the Committee on Health, Educa-
tion, Labor, and Pensions of the Senate
reports a bill or joint resolution if an amend-
ment is offered thereto or if a conference
report is submitted thereto, that—
(1) addresses health care costs, coverage, or
care for the uninsured;
(2)(A) provides safety net access to inte-
grated and other health care services or
(B) increases the number of people with
health insurance, provided that such inc-
novation is not obtained primarily as a
result of increasing premiums for the current
insured; and
(3) increases access to coverage through
mechanisms that decrease the growth of
health care costs.

SEC. 304. RESERVE FUND FOR LAND AND WATER
CONSERVATION FUND.

(a) IN THE SENATE.—If—
(1) the Committee on Energy and Natural
Resources reports a bill or joint resolution,
or an amendment is offered thereto, or a con-
ference report is submitted thereto, that
permits the appropriation of oil in the
1002 Area of the Arctic National Wildlife
Refuge, and such measure is enacted; and
(2) the reconciliation instruction set out in
section 321(a) is met,

the committee is within its al-
location as provided under section 302(a)
of the Congressional Budget Act of 1974, the
chairman of the Committee on the Budget
may revise committee allocations for that
committee and other appropriate budgetary
aggregates and allocations of new budget au-
thority and outlays by the amount provided
by that measure for that purpose, but not to
exceed $100,000,000 in new budget authority
for fiscal year 2006 and the outlays flowing
from that budget authority and $2,000,000,000
in new budget authority for the period of fis-
cal years 2006 through 2010, and the outlays
flowing from that budget authority.

SEC. 305. RESERVE FUND FOR THE FEDERAL
PELL GRANT PROGRAM.

In the Senate, if the Committee on Health,
Education, Labor, and Pensions reports a bill or
joint resolution, or an amendment is of-
ferred thereto or a conference report is
submitted thereto, that provides for national
energy policy, and

(1) the Committee on Energy and Natural
Resources reports a bill or joint resolution,
or an amendment is offered thereto, or a con-
ference report is submitted thereto, that
permits the appropriation of oil in the
1002 Area of the Arctic National Wildlife
Refuge, and such measure is enacted; and
(2) the reconciliation instruction set out in
section 321(a) is met,

the committee is within its al-
location as provided under section 302(a)
of the Congressional Budget Act of 1974, the
chairman of the Committee on the Budget
may revise committee allocations for that
committee and other appropriate budgetary
aggregates and allocations of new budget au-
thority and outlays by the amount provided
by that measure for that purpose, but not to
exceed $100,000,000 in new budget authority
for fiscal year 2006 and the outlays flowing
from that budget authority and $2,000,000,000
in new budget authority for the period of fis-
cal years 2006 through 2010.

SEC. 306. RESERVE FUND FOR HIGHER EDU-
CATION.

In the Senate, if the Committee on Higher
Education reports a bill or joint resolution, or an amendment is of-
ferred thereto or a conference report is
submitted thereto, that reauthorizes the Higher
Education Act of 1965, as amended, that the
committee is within its allocation as pro-
vided under section 302(a) of the Con-
gressional Budget Act of 1974, the chairman of
the Committee on the Budget may revise
committee allocations for that committee
and other appropriate budgetary aggregates and
allocations of new budget authority and out-
lays by the amount provided by that
measure for that purpose, but not to exceed
$740,000,000 in new budget authority and
$676,000,000 in outlays for fiscal year 2006, and
$643,000,000 in new budget authority and
$5,006,000,000 in outlays for the period of fis-
cal years 2006 through 2010.
excess of $42,686,000,000 for fiscal year 2006, for programs, projects, and activities for highways, highway safety, and transit, and if legislation has been enacted that satisfies the conditions in subsection (b) in section 320(b) for such fiscal year, the chairman of the Committee on the Budget may increase the allocation of outlays and appropriate aggregates for such programs and, as necessary, in subsequent fiscal years, for the committees reporting such measures, by the amount of outlays that corresponds to such excess obligation in mandatory programs subject to the criteria in subparagraph (B) and, as necessary, in subsequent fiscal years, for the committees reporting such measures, by the amount of such excess that was offset in 2006 pursuant to subsection (a). After the adjustment has been made, the Senate Committee on Appropriations shall report new section 320(b) allocations consistent with this section.

TITLE IV—BUDGET ENFORCEMENT

SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS.

(a) In General.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation as defined in subparagraph (B).

(b) Exceptions.—An advance appropriation may be provided for fiscal years 2007 and 2008 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution that provides that such advance appropriation is needed for emergency purposes identified as an emergency designation in that measure. The term "emergency designation" in that measure, that provision means any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 402. EMERGENCY LEGISLATION.

(A) Guidance.—If a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subparagraph (B).

(B) Criteria.—

(1) In General.—Any such provision is an emergency requirement if the situation addressed by such provision is an urgent, pressing, and compelling emergency that would remain in effect for purposes of Senate and as used in this section, the term "emergency" means immediate, unforeseen, unpreventable, and temporary.

(2) Unforeseen, Unpredictable, and Uncontrollable Emergencies. —An emergency that is unforeseen, unpredictable, and uncontrollable is an emergency that is unforeseen, unpredictable, and uncontrollable for purposes of this section.

(3) Unforeseen. —An emergency that is unforeseen is unforeseen for purposes of this section.

(4) Unpredictable. —An emergency that is unpredictable is unpredictable for purposes of this section.

(5) Uncontrollable. —An emergency that is unforeseen, unpredictable, and uncontrollable is unforeseen, unpredictable, and uncontrollable for purposes of this section.

(6) Definition. —In this section, the term "emergency designation" means any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(7) Point of Order. —When the Senate is considering a bill, joint resolution, amendment, motion, or conference report, the point of order made by a Senator against an emergency designation in that measure, that provision means a measure that may not be offered as an amendment from the floor.

(8) Waiver and Appeal. —(Paraphrased) (Paragraph (5) may be waived or suspended in the Senate when two-thirds of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair relating to any provision of this subsection.

(9) Conference Reports. —(Paragraph (5) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.)

(10) Exception for Defense Spending. —(Paragraph (5) shall not apply against an emergency designation for a provision making appropriations under the defense function (OFP).

(11) Exception of Overseas Contingent Operations. —(1) In General.—In the Senate, if a bill, joint resolution, amendment, or a conference report makes supplemental appropriations for military operations related to the global war on terrorism, the new budget authority, new entitlement authority, and outlays resulting from the provisions of such measure that are designated pursuant to this section as making appropriations for such contingency operations—(A) shall not count for purposes of sections 302, 303, and 401 of the Congressional Budget Act of 1974; and (B) shall not count for the purpose of section 404 of the resolution as an emergency in order to exempt legislation or appropriations for discretionary accounts from enforcement of this resolution.

(2) Limitation.—The amounts that are not counted for purposes of this section shall not exceed $50,000,000,000 in new budget authority and outlays associated with the budget authority for military operations related to the global war on terrorism.

SEC. 403. SUPERMAJORITY ENFORCEMENT.

(a) Extension.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2010.

(b) Unfunded Mandates. —(1) In General. —Section 252(a) and (2) of the Congressional Budget Act of 1974 shall be subject to the waiver and appeal requirements of subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974.

(2) Effective Date.—This subsection shall remain in effect for purposes of Senate enforcement through September 30, 2010.

SEC. 404. DISCRETIONARY SPENDING LIMITS IN THE SENATE.

(a) Discretionary Spending Limits. —(In the Senate and as used in this section, the term "discretionary spending limit" means—

(1) for fiscal year 2006, $824,682,000,000 in new budget authority and $915,690,000,000 in outlays for the discretionary category; and

(2) for fiscal year 2007, $868,473,000,000 in new budget authority for the discretionary category; and

(3) for fiscal year 2008, $901,445,000,000 in new budget authority for the discretionary category; and

(b) Adjustments to Discretionary Spending Limits.—(For purposes of this section, the term "disability reviews"—(1) for fiscal year 2006, $412,000,000 for continuing disability reviews for the Social Security Administration, and provides an additional appropriation of $189,000,000 for continuing disability reviews for the Social Security Administration.

(2) Internal Revenue Service Tax Enforcement.—If a bill or joint resolution is not reported making appropriations for fiscal year 2006 that appropriates $412,000,000 for continuing disability reviews for the Social Security Administration, then the Senate Committee on Appropriations shall be increased by $189,000,000 in budget authority and outlays resulting from the provisions of such measure as a discretionary appropriation for fiscal year 2007.

(3) Internal Revenue Service Tax Enforcement.—If a bill or joint resolution is
reported making appropriations for fiscal year 2006 that appropriates $6,447,000,000 for enhanced tax enforcement to address the “Federal tax gap” for the Internal Revenue Service, and provides an additional appropriation of $446,000,000 for enhanced tax enforcement to address the “Federal tax gap” for the Internal Revenue Service, then the allocation to the Senate Committee on Appropriations shall be increased by $446,000,000 in budget authority and outlays flowing from the budget authority for fiscal year 2006.

(3) HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.—If a bill or joint resolution is reported making appropriations for fiscal year 2006 that appropriates $10,000,000 for the health care fraud and abuse control program at the Department of Health and Human Services, then the allocation to the Senate Committee on Appropriations shall be increased by $10,000,000 in budget authority and outlays flowing from the budget authority for fiscal year 2006.

(4) UNEMPLOYMENT INSURANCE IMPROPER PAYMENTS.—If a bill or joint resolution is reported making appropriations for fiscal year 2006 that appropriates $30,000,000 to improve unemployment insurance improper payments reviews conducted by the Department of Labor, and provides an additional appropriation of $30,000,000 to the health care fraud and abuse control program at the Department of Health and Human Services, then the allocation to the Senate Committee on Appropriations shall be increased by $30,000,000 in budget authority and outlays flowing from the budget authority for fiscal year 2006.

(5) DISCRETIONARY SPENDING POINT OF ORDER IN THE SENATE.—(1) In general.—Except as otherwise provided in this subsection, it shall not be in order for the Senate to consider any bill or joint resolution (or amendment, motion, or conference report on that bill or joint resolution) that would cause the discretionary spending limits in this section to be exceeded.

(2) WAIVER.—This subsection may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(3) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be heard without regard to time, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be, and shall be settled only by the appropriate Committee on the Budget, unless the Senate by a vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(4) PROCEDURE FOR ADJUSTMENTS.—(1) In general.—(A) CHAIRMAN.—After the reporting of a bill or joint resolution, or the offering of an amendment to the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority.

(B) MATTERS TO BE ADJUSTED.—The adjustments referred to in subparagraph (A) are to be made to—

(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974; and

(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(2) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in paragraph (1) shall be an amount provided for the fiscal year 2006 pursuant to section 302(b) of the Congressional Budget Act of 1974.

(3) REPORTING REVISED SUBALLOCATIONS.—Following the submission of a conference report on that bill or joint resolution, the Committee on Appropriations of the Senate shall report appropriately revised suballocations under section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

SEC. 405. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND APPROPRIATIONS.—(1) APPLICABILITY.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(A) apply while that measure is under consideration;

(B) take effect upon the enactment of that measure; and

(C) be published in the Congressional Record as soon as practicable.

(2) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(3) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(A) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and

(B) such chairman may make any other necessary adjustments to such levels to carry out this paragraph.

SEC. 406. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.—(1) IN GENERAL.—In the Senate, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the appropriate chairman of the Committee on the Budget shall make adjustments to the allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2005).

(2) PELL GRANTS.—(A) BUDGET AUTHORITY.—In the Senate, if appropriations of discretionary new budget authority enacted for the Federal Pell Grant Program are insufficient to cover the full cost of Pell Grants in the upcoming award year, adjusted for any cumulative funding surplus or shortfall from prior years, the budget authority counted against the bill for the Pell Grant Program shall be equal to the adjusted full cost.

(B) APPROPRIATIONS.—This subsection shall apply only to new Pell Grant awards approved in legislation for award year 2006–2007 and subsequent award years and shall not apply to the cumulative shortfall through award year 2005–2006.

(3) ESTIMATES.—The estimate of the budget authority associated with the full cost of Pell Grants shall be based on the maximum award and any changes in eligibility requirements, using current economic and technical assumptions and as determined pursuant to section 205(c) of the Item Veto Act of 1996 (Public Law 104–130).

SEC. 407. LIMITATION ON LONG-TERM SPENDING PROPOSALS.—(1) CONGRESSIONAL BUDGET OFFICE ANALYSIS.—The Congressional Budget Office shall, to the extent practicable, prepare an estimate of the costs in each of the four 10-year periods beginning in fiscal year 2015 through fiscal year 2025, for each bill or resolution of a public character, except measures within the jurisdiction of the Committee on Appropriations, providing a net increase in direct spending in excess of $5,000,000,000 in any of the four 10-year periods beginning in fiscal year 2015 through fiscal year 2025, and provide the estimate of the costs of the legislation.

(2) IN THE SENATE.—It shall not be in order to consider any bill, joint resolution, amendment, motion, or conference report that would cause a net increase in direct spending in excess of $5,000,000,000 in any of the four 10-year periods beginning in 2015 through 2025, as measured by the Congressional Budget Office.

(3) WAIVER.—This section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(4) APPEALS.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(5) DETERMINATIONS OF BUDGET LEVELS.—For purposes of this section, the levels of net direct spending shall be determined on the basis of estimates provided by the Committee on the Budget of the Senate.

(6) SUNSET.—This section shall expire on September 30, 2030.

SEC. 408. EXERCISE OF RULEMAKING POWERS.—Congress adopts the provisions of this title as an exercise of the rulemaking power of the Senate and the House, respectively, and as such they shall be considered part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(1) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that house) at any time, in the same manner, and to the same extent as in the case of any other rule that House.

TITLE V.—SENSE OF THE SENATE

SEC. 501. SENSE OF THE SENATE REGARDING UNAUTHORIZED APPROPRIATIONS.—It is the sense of the Senate that Congress should—

(1) conclude consideration of any bill, joint resolution, amendment, motion, or conference report that would provide an appropriation, in whole or in part, for programs not specifically authorized by law or Treaty stipulation, or the amount of which exceeds the amount specifically authorized by law or Treaty stipulation, or that would provide a limited tax benefit as defined by the Line Item Veto Act of 1996 (Public Law 104–130), and

(2) determine a method for effectively containing the extraordinary growth in unauthorized earmarks.

SEC. 502. SENSE OF THE SENATE REGARDING A COMMISSION TO REVIEW THE PERFORMANCE OF PROGRAMS.—It is the sense of the Senate that a commission should—

(1) conclude consideration of any bill, joint resolution, amendment, motion, or conference report that would provide an appropriation, in whole or in part, for programs not specifically authorized by law or Treaty stipulation, or the amount of which exceeds the amount specifically authorized by law or Treaty stipulation, or that would provide a limited tax benefit as defined by the Line Item Veto Act of 1996 (Public Law 104–130), and

(2) determine a method for effectively containing the extraordinary growth in unauthorized earmarks.
shall not report a reconciliation bill that 

SEC. 504. SENSE OF THE SENATE REGARDING RE-

(a) FINDINGS.—The Senate makes the fol-

owing findings:
(1) In a Medicaid program provides essen-

health care and long-term care services to 

more than 50,000,000 low-income children, 

pregnant women, parents, individuals with 

disabilities, and other chronic conditions to 

remainder of the community, to work, and to 

and other supportive services that are 

by private health insurance or Medicare, but are 

cessary to enable individuals with spinal cord 

and developmental disabilities, neurological 

dergegenerative diseases, serious and 

and persistent mental illnesses, HIV/AIDS, 

other chronic conditions to remain in the 

and to maintain inde-

(2) Medicaid provides critical access to 

and other services for the el-

and individuals living with disabilities, and 

the single largest provider of long-

type of care and other services for the el-

elderly and individuals living with disabilities, 

is the single largest provider of long-

term care recipients. Medicaid also pays for 

on the need for medical services.

(3) Medicaid provides critical access to 

nder the role the Medicaid pro-

health care system of the United States;

(2) cap Federal Medicaid spending, or oth-

other local governments and their taxpayers 

health providers, forcing a reduction in 

essential health services for low-in-

in- 

ings, individuals with disabilities, and children and families; 

(3) undermine the Federal guarantee of 

health insurance coverage Medicaid pro-

safety net not only the 

health care system.

SEC. 505. SENSE OF THE SENATE REGARDING TRIBAL COLLEGES AND UNIVER-

(a) FINDINGS.—The Senate finds the fol-

(1) American Indians from over 250 feder-

recognized tribes nationwide attend tribal college and universities, a majority of whom are first-generation college students.

(2) Tribal colleges and universities are lo-

ated in some of the most isolated and 

overpopulated areas in the Nation and are the key to the education and 

ations of higher education. While the "Tribally Con-

controlled University Assistance Act, or "Tribal College Act," provides funding to public colleges and universities, some tribal colleges and universities do not receive operating funds from their respective States for these non-Indian State residents. In many cases some Indian students attended any other public institutions in their States, the State would provide basic operating funds to the institution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) this resolution recognizes the funding challenges faced by tribal colleges, and un-

versities and assumes that equitable consider-

ation will be provided to them through funding of the Tribally Controlled College or University Assistance Act, the Equity in Educational Land Grant Status Act, title III of the Higher Education Act of 1965, and the National Science Foundation, Department of Defense, and Housing and Urban Develop-

ment Tribal College and University Pro-

grams; and

(2) such equitable consideration reflects 

Congress's intention to continue to work toward 

attempts that—

SEC. 506. SENSE OF THE SENATE REGARDING SUPPORT FOR THE PRESIDENT'S RE-

(a) FINDINGS.—The Senate finds the fol-

(1) undermines the role the Medicaid pro-

health care system of the United States;

(2) cap Federal Medicaid spending, or oth-

his proposal to 

other local governments and their taxpayers 

health providers, forcing a reduction in 

essential health services for low-in-

ing elderly and individuals with disabilities, and children and families; 

(3) undermine the Federal guarantee of 

health insurance coverage Medicaid pro-

safety net not only the 

health care system.

SEC. 507. SENSE OF THE SENATE REJECTING PROPOSED ELIMINATION OF PER DIEM REIMBURSEMENT TO STATE VETERANS HOMES IN THE PRESI-

(a) FINDINGS.—The Senate finds that 

reduction of that Act that will allow them to address 

in the states in recent years, as this is critical for school districts 

addressing the emotional and family needs of 

military families who have a pur-

in many cases, moving to smaller, less 

expensive housing;
Whereas individuals, families, and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2005 as ‘Life Insurance Awareness Month’, the goal of which is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates September 2005 as ‘Life Insurance Awareness Month’;

(2) recognizes and supports the goals and ideals of ‘Life Insurance Awareness Month’; and

(3) requests that the President issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe ‘Life Insurance Awareness Month’ with appropriate programs and activities.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, March 11, 2005, at 9:30 a.m. to hold a nomination hearing. The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LIFE OF FERN HOLLAND

On Thursday, March 10, 2005, the Senate passed S. Res. 80, as follows:

Whereas the Senate remembers with great sadness the murder of Fern Holland near the American Refugee Committee at a refugee camp in Guinea where she established a legal clinic in 2003; and

Whereas in May 2003, Fern Holland went to the Peace Corps as a human rights volunteer in South Africa; and

Whereas in the spring of 2000, Fern Holland went to in south Baghdad, and acted as a strong advocate for Iraqi women’s rights; and

Whereas residents of the refugee camp in Guinea renamed the legal clinic Fern Holland established the ‘Fern Holland Legal Aid Clinic of Nzerekore’; and

Whereas the Cherokee Nation honored Fern Holland by passing a resolution saying she “died as a warrior”; and

Whereas the United Nations Security Council posthumously named a Heroic Oklahoman on April 7, 2004, by Governor Brad Henry; and

Whereas Fern Holland devoted her brief life to promoting her beliefs in basic human rights and the rule of law: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that, in Fern Holland, the World has lost one of its most devoted and hard working human rights activists;

(2) honors Fern Holland in her extreme dedication to making the world a better place; and

(3) expresses its deep and heartfelt condolences to the family of Fern Holland on their loss.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

On Thursday, March 10, 2005, the Senate passed S. 256, as follows:

(a) Short Title—The 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:

S. 256

Sec. 1. Short title; references; table of contents.

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Sec. 323. Excluding employee benefit plan contributions and other property from the estate.

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Sec. 1501. Effective date; amendments.
Sec. 1502. Technical corrections.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.
Sections 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) by striking the first sentence as so redesignated by subparagraph (A) of this paragraph—
(1) in the first sentence—
(i) by striking “but not at the request or suggestion of the debtor or bankruptcy administrator, if any,”; or
(ii) by inserting “, and with the debtor’s consent to a case under chapter 11 or 13 of this title,” after “consumer debtor”; and
(III) by striking “a substantial abuse” and inserting “a substantial abuse or may order the attorney for the debtor to file a motion to dismiss the case, as provided by section 116.3(a) of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to file a motion to dismiss the case, as provided by section 116.3(a) of the Federal Rules of Bankruptcy Procedure”;
(II) any additional payments to secured creditors 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 of the debtor 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 court shall require the debtor to itemize any additional expense or adjustment of income and to provide—
(I) documentation for such expense or adjustment taken into consideration; 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 necessary.
(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—
(1) 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 much such amount is calculated.
(B) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means test if the court determines on the motion of a party in interest, in accordance with subsection (F)(i) of this section, that the presumption of abuse in section 707(b) of title 11 is not rebutted.
(F) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in section 707 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to file a motion to dismiss the case, as provided by section 116.3(a) of the Federal Rules of Bankruptcy Procedure, 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 section 701 of the Federal Rules of Bankruptcy Procedure, or, 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, or part thereof, is not warranted by existing law or good faith argument for its extension, modification, or reversal. A party in interest filing a motion may file a response within 10 days after the date of the order for relief when multiplied by 12, is equal to or less than the current monthly 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 $255 per month for each additional household member. For purposes of this paragraph, ‘‘(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 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); 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 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 subsection if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); or

(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 support 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 any public benefit program; and 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) 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, at the conclusion 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 filing of a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the basis for the presumption 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—

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

‘‘(1) 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.

(2) 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.

(3) In a case under chapter 13, the term ‘‘crimes against humanity’’ has the meaning given such term in section 16 of title 18; and

(4) The term ‘‘drug trafficking crime’’ has the meaning given such term in section 924(c)(2) of title 18.

(2) As excepted in paragraph (3), after notice and a hearing, the court, on a showing by the victim of a drug trafficking crime or a violent 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 and in which 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.

(4) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ‘‘(a)’’ and

(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’’;

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

‘‘(2) For purposes of this subsection, the term ‘‘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; (c) 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 the education, or the support orobligation, 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 54(b)(3) to a qualified religious or charitable entity or organization (as defined in section 54(b)(4)) in an amount not in excess of the higher of the cost of such insurance and demonstrated by the actual amount expended by 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 $671, as follows:

(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, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; and

(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 individuals, plus $25 per month for each individual in excess of 4.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1282(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 "; and"

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 for 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) 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 described 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 the debtor for 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 administering 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 101(b)(7), United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b)(1)(A)(i) and (ii), 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 most recent year, calculated and reported by the Bureau of the Census, 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 effect 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; or

(k) CIVIL PROCEEDINGS.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item referenced 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 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;

(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, the effect of which is necessary to accommodate their use under section 707(b) of title 11, United States Code.

SEC. 104. NOTICE OF ALTERNATIVES. Section 342(b) of title 11, United States Code, is amended to read as follows:

(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 shall 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 a nonprofit budget and credit counseling agency described in section 511(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.

Paragraph (1) shall 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 assistance 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); and

(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 preceding 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 60 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 illness or mental incapacity so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is 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 ; 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 subsection (11), the exemption contained in 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).

(2) 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 6 months after the date of such determination, and not less frequently than annually thereafter.

(d) Debtor’s Duties.—Section 522 of title 11, United States Code, is amended—

(1) by inserting "(a)") before "the debtor shall; and"

(ii) 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 of the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor;

(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 chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 1111. 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) instructions 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 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 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) shall determine, after notice and hearing, whether to approve such instructional course for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated the ability to meet the standards set forth in this title. A renewal of such additional 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.

(b) Not later than 30 days after any final decision under paragraph (a), 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.

(c)(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—

(1) 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;

(2) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

(3) provide safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

(4) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and the true and reasonable costs of such program that will be paid by such client and how such costs will be paid;

(5) 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;

(6) provide trained counselors who receive regular training and counseling based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide services to individuals in financial difficulty, including the matters described in subparagraph (E);

(7) demonstrate adequate experience and background in providing credit counseling; and

(8) have adequate financial resources to provide continuing support services for budget 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 paragraph (3)(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 reasonable proximity to the debtor, and 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;

(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 likely to increase substantially the debtor’s understanding of personal financial management?

(3) a court, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents necessary to the integrity of such agency.

(4) at any time, remove from the list maintained under subsection (a) a nonprofit budget and credit counseling agency upon finding that such agency does not meet the qualifications of subsection (b).

(f) LIMITATION. 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).

(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 subsection may, in a suit brought by the debtor for damages in an amount equal to the greater 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.

(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, in consultation with the appropriate 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

Section 201. Promotion of Alternative Dispute Resolution

(a) REGARDING CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end of the section the following:

(1) such creditor retained a security interest in the amount of the debt as of the date of the disclosure statement, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, and

(2) such statement, declaration, motion and order described, respectively, in paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, and

(2) the debtor received the disclosures described in subsection (c)(2) at least 60 days before the date at which the debtor signed the agreement.

(b) LIMITATION ON AVAILABILITY.—Section 507 of title 11, United States Code, is amended by adding at the end the following:

(1) such creditor retained a security interest in the amount of the debt as of the date of the disclosure statement, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, and

(2) such statement, declaration, motion and order described, respectively, in paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, and
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 was given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each balance, identifying the amount of each 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 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 was given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each balance, identifying the amount of each 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 in personal property that is not a lien on your real property, like your home, or lien on goods in property 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 .

"(ii) by making the statement: ‘Your payment schedule is , and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to be due, reading from the extent then known by the disclosing party; or

"(iii) by describing the debtor’s repayment obligation, and if different, the amount to be paid under 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 creditor is not permitted to do what might reasonably be expected to 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, you may want to talk with your attorney during the negotiation of your reaffirmation agreement.

"(J)(i) The following additional statements:

"(1) 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.

"(2) Complete and sign Part D and be sure you can afford to make the payments you agree to make. If you cannot afford to make the payments, you may want to talk with your attorney during the negotiation of your 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 or are agreeing to make the payments you agree to make under this paragraph, your reaffirmation agreement, you must have completed and signed Part E.

"(5) The original of this disclosure must be filed with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"(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.

"(7) If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement.

"(8) 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 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 has been rescinded.

"What are your obligations if you reaffirm the debt? A reaffirmed debt remains in your name. 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.

"(4) The form of such agreement required under this subparagraph shall consist of the following:

"Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

"Signature: Date:

"Borrower(s):

"If you were reaffirming these debts:

"(A) Brief description of credit agreement:

"(B) Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"Signature of 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) if I am not employed by the debtor, I have no personal interest in the terms 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 the court finds that the debtor is not able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall be blank.

"(D) 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:

"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 housing expenses post-bankruptcy and other reaffirmation agreements total $ , leaving $ to make the required payments on this reaffirmed debt. I understand that unless my monthly expenses do 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) This subsection does not apply to reaffirmation agreements for consumer credit contracts as defined in section 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 sections 152 and 157 relating to materially fraudulent statements in bankruptcy schedules.

(b) Certain actions.—Section 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 sections 152 and 157 relating to materially fraudulent statements in bankruptcy schedules.
SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OblIGATIONS.  

Title 11, United States Code, is amended—

(1) in subsection (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 or has paid all amounts payable under such order or such statute for such obligation that first became payable after the date of the filing of the petition.";  

(2) in section 1296(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 domestic support obligation that are non-dischargeable under section 523(a)(7) only if the plan provides that all of the debtor's disposable income available to pay such interest after making provision for full payment of all allowed claims; and";  

(10) in section 1222(a), as amended by section 403 by inserting after paragraph (7) the following:  

"(6) 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 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) are due or payable after the completion of 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 to enforce a domestic support obligation;  

(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, except to the extent that such proceeding seeks to determine the division of 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 restructuration 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 a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or  

(F) 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:  

"(B) 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 109–168 (108 Stat. 4131).
(A) by inserting "to a spouse, former spouse, or child of the debtor and before" before "not of the kind"; and
(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)(2), 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)); 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 101(1) 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
(2) by adding at the end the following:
"(11) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(3) in subsection (b)(6) of section 523(a); or
(II) was reaffirmed by the debtor under section 524(c).

(2) in paragraph (6), by striking "and" at the end; and
(B) in paragraph (7), by striking the period and inserting a semicolon; 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:
"(9) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).

SEC. 219. COLLECTION OF CHILD SUPPORT.
(a) DUTIES OF TRUSTEE UNDER CHAPTER 11.—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
(2) by adding at the end the following:
"(11) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(12) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).

(b) 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:
"(7) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).

(c) 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 (c); and
(2) by adding at the end the following:
"(7) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).

(d) 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:
"(7) in the notice required by clause (i) the address and telephone number of such State child support enforcement agency; and
(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).
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;

(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

(C) if at the time 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—

(1) is not discharged under paragraph (2) or (4) of section 522(a); or

(II) was reaffirmed by the debtor under section 524(c).

(2) For purposes of this paragraph—

(A) in paragraph (1), by adding at the end the following:

(6) in subsection (f) after paragraph (5) the following:

(B) by striking “(2) For purposes” and inserting—

(2) 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

(A) in paragraph (2)

(ii) in subparagraph (B)

(1) the debtor may or should

(A) in paragraph (2)

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

(ii) in subparagraph (B)

(iii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) the court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) by inserting after paragraph (2) the following:

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

(2) in subsection (d)(I) and inserting—

(i) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) the court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) the court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) by inserting after paragraph (2) the following:

(3) in subsection (d)(I) and inserting—

(2) 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

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(3) The court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(2) in subsection (d)(I) and inserting—

(2) 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

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(i) whether

(B) by striking paragraph (2); and

(C) the court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) the court, as part of its contempt

(ii) whether

(B) by striking paragraph (2); and

(B) by striking paragraph (2) and inserting—

(C) the court, as part of its contempt

(ii) whether
issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any)."; and

(II) by adding at the end the following: "(A) 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 the bankruptcy petition; or

(B) 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.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of bankruptcy, designed for use in elementary and secondary schools.

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

Section 522(d), title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (19) the following:

"(20) under subsection (a), of withholding taxes on income from a debtor (as discussed in section 6402 of the Internal Revenue Code of 1986, and earnings thereon, except that wages due an individual that satisfies the requirements of section 3401(f) of the Internal Revenue Code of 1986 are not subject to withholding tax if such wages are paid in a case filed by a qualified individual under section 97(d));"

(10) by redesignating paragraph (18) as paragraph (20)

(11) by adding the following:

"(21) under subsection (a), of withholding taxes on income from a debtor (as discussed in section 6402 of the Internal Revenue Code of 1986, and earnings thereon, except that wages due an individual that satisfies the requirements of section 3401(f) of the Internal Revenue Code of 1986 are not subject to withholding tax if such wages are paid in a case filed by a qualified individual under section 97(d))."

(12) by striking paragraph (21) and inserting "(21) under subsection (a), of withholding taxes on income from a debtor (as discussed in section 6402 of the Internal Revenue Code of 1986, and earnings thereon, except that wages due an individual that satisfies the requirements of section 3401(f) of the Internal Revenue Code of 1986 are not subject to withholding tax if such wages are paid in a case filed by a qualified individual under section 97(d))."
(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 providing 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 debt relief agency who provides such assistance or of the bankruptcy petition preparer under section 110, or
   (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 such 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 entity organized under 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 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
   (E) an author, publisher, distributor, or seller of works subject to copyright protection under section 105, when acting in such capacity.
   (b) CONFORMING AMENDMENT. — Section 101(b) of title 11, United States Code, is amended by inserting "101(3)," after "101(3)," and "101(5)," after "101(5)," 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 following:
   "§ 526. Restrictions on debt relief agencies
   (a) A debt relief agency shall not—
   (1) fail to inform a person 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) provide 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 statement including those specified in section 521;
   (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, refer 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).
   (b) 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 any person, finds that a debt relief agency has violated or, 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 that does not exceed $5,000.
   (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) a court to determine and enforce the qualifications for the practice of law before that court.

(3) 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.

(1) a debt relief agency providing bankruptcy assistance to an assisted person shall provide—

(A) the written notice required under section 342(b)(1); and

(B) to the extent not covered in the written notice described in paragraph (1), and not later than 5 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 provides during their case may be audited pursuant to this title, and that failure to provide 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 shall provide assisted persons 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 financial condition, the amount 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 benefits and obligations associated with filing for bankruptcy relief, and have a lock box in which all bank statements and tax returns are sent.

(a) the services such agency will provide to an assisted person; and

(b) the fees or charges for such services, and the terms of payment;

(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 to provide what the agency provides the required information 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

(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be identified;

(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506;

(a) 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 to 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:

SEC. 229. REQUISITES 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 to any 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 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, telephone or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

(2) provide the assisted person with a copy of the fully executed and completed contract;

(b) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

(1) the description of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

(2) statements as to the “federal supervising payment plan” and “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.

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 Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of debtors for the following such Office to determine whether such debtors have outstanding obligations for child support.
support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) Requirement.—Not later than 300 days after the date on the front page 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:—

 ``(A) if provided by an individual to the debtor in connection with obtaining a product or a service described in section 363(b)(1)(B), the court shall order the United States trustee to provide such sale or such lease as approved by the court; and

 ``(B) if identified in connection with a product or a service described in section 363(b)(1)(B), the court shall order the United States trustee to provide such sale or such lease as approved by the court.”

(b) Compensation of Consumer Privacy Ombudsman.—Section 338(a)(1) of title 11, United States Code, as amended by section 606 of the American Recovery and Reinvestment Act of 2009, is amended by adding at the end the following:

 ``(4) The potential alternatives that would mitigate potential privacy losses or potential costs to consumers.”

(c) Consumer Privacy Ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.”

SEC. 232. 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:

 ``(8) 112. Prohibition on disclosure of name of minor children.

 ``(A) The debtor shall not disclose any 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 332, and by the court for examination by any person unless—

 ``(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

 ``(ii) no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

 (B) on the motion of a party in interest the bankruptcy court, for cause, may extend the period at the end and inserting the following:

 ``(C) for purposes of subparagraph (B), a consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.”

B. Where the name of a minor child is disclosed in any paper filed or submitted in a case under this title; and

 ``(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court.”

(c) Conforming Amendment.—The table of sections for chapter 13 of title 11, United States Code, is amended by adding at the end the following:

 ``(112. Prohibition on disclosure of name of minor children.”

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:

 ``(8) 112. Prohibition on disclosure of name of minor children.

 ``(A) The debtor shall not disclose any 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 332, and by the court for examination by any person unless—

 ``(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

 ``(ii) no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

 (B) on the motion of a party in interest the bankruptcy court, for cause, may extend the period at the end and inserting the following:

 ``(C) for purposes of subparagraph (B), a consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.”

B. Where the name of a minor child is disclosed in any paper filed or submitted in a case under this title; and

 ``(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court.”

(c) Conforming Amendment.—The table of sections for chapter 13 of title 11, United States Code, is amended by adding at the end the following:

 ``(112. Prohibition on disclosure of name of minor children.”

SEC. 301. TECHNICAL AMENDMENTS.

Section 522(a)(7) of title 11, United States Code, is amended—

(1) by striking “by a court” and inserting “on a prisoner by any court”; and

(2) by striking “section 1915(b) and (f)” and inserting “section 1915(b) or (f)”.

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; and

(2) in paragraph (2), by striking the period at the end and inserting “after”.

SEC. 303. DISCOURAGING BAD FAITH REPEAT FILINGS.

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

(1) by adding “and” at the end; and

(2) by adding 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, 12, or 13 filed after 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).”

SEC. 304. 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) The bankruptcy court, for cause, may protect an individual, with respect to the foregoing financial losses or gains 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;”

(b) In the case of an individual proceeding under chapter 7 after dismissal under section 707(b),—

 ``(I) the stay under subsection (a) with respect to any action taken with respect to the property of such debtor or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;”

conciliation and a 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 of the property of such debtor or with respect to any lease to the extent that 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;”

(c) For purposes of subparagraph (B), a case is presumptively filed in bad faith (but such presumption may be rebutted by clear and convincing evidence to the contrary).

(1) more of the items of information specified in subparagraph (A), and

(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 a judicial or regulatory power of a domestic governmental unit.

(3) The United States trustee, bankruptcy administrator, trustee or other individual performing services under section 11057 of title 11, United States Code, is authorized to—

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

(2) shall not disclose information specifically protected by the court under this title.”

SEC. 305. 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”;

(2) by inserting “(a)” before “the notice filed with the court with the following:

 (a) CONFORMING AMENDMENT.—Section 1007(a) of title 11, United States Code, is amended by striking “section (b),” and inserting “(subsection (b), and (c))."
was a debtor who 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 pending 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 or the party in interest failed to timely provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(bb) provide adequate protection as ordered by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor or the debtor’s property since the dismissals of such previous cases, unless the dismissal was caused by the negligence of the debtor’s attorney—

(a) 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; 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 dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to 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”;

(iii) as to any creditor that commenced an action under subsection (a), in a case under this title, or any other reason to conclude that the later case will not be concluded, 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 creditor.

(b) SECURE PLANNED ABORTION ACTIONS.—

(i) TITLE 11, UNITED STATES CODE, IS AMENDED—

(ii) AS TO ANY PERSON.—Section 707(b)(5) of title 11, United States Code, is amended—

(iii) 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”;

(iii) as to any creditor that commenced an action under subsection (a), in a case under this title, or any other reason to conclude that the later case will not be concluded, 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 creditor.

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 109(g) to be a debtor in a case under this title; or

(2) 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;

(3) by amending section 362(d) by including as part of the definition of “substantial” any case under title 11, United States Code, as amended by this subtitle, that was dismissed or converted within the 1-year period prescribed by section 362(d)(1) (as redesignated by this subtitle).

(4)(A) if a single or joint case is filed by—

(i) as to all creditors if

(II) unless such statement specifies the debtor’s intention to reaffirm such debt on the original terms;

(III) unless such statement specifies the debtor’s intention to reaffirm such debt on the original terms.

(4)(B) A case under title 11, United States Code, as amended by this subtitles, that was dismissed or converted within the 1-year period prescribed by section 362(d)(1) (as redesignated by this subtitle), shall not be concluded, unless such statement specifies the debtor’s intention to reaffirm such debt on the original terms.

(iii) as to any creditor that commenced an action under subsection (a), in a case under this title, or any other reason to conclude that the later case will not be concluded, 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, condi-
(2) in section 521, as amended by sections 106 and 225—
(A) in subsection (a)(2) by striking ‘‘consumer’’;
(B) in subsection (a)(3)(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)(1);’’ 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)(1), 544, 546, 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 limiting such a provision in any other circumstance.’’.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.
(a) In General.—Section 1225(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 1225(a)(5)(B) of title 11, United States Code, is amended by adding at the end the following:

‘‘(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor or a dependent of the debtor uses the property subject to the lease.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.
Section 522(b)(3) of title 11, United States Code, as amended by section 225, is amended—

(1) by adding the following as a new subsection (c):—

‘‘(c) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and notification of cure under this subsection.

SEC. 308. REGULAR AND HOMESTEAD EXEMPTION—EXCEPTION FOR FRAUD.
Section 522 of title 11, United States Code, as amended by section 225, is amended—

(1) in subparagraph (A) by inserting ‘‘subsections (o) and (p),’’ before ‘‘any property’’; and

(2) by adding at the end the following:

‘‘(o) For purposes of subsection (b)(5)(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 attributable to any portion of any property that the debtor disposed of in the 1-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, under subsection (b), on such date the debtor had held the property, or

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’’ and inserting ‘‘or’’;

(2) (A) by striking ‘‘in the converted case, with allowed secured claims’’ and inserting ‘‘only in a case converted to a case under chapter 11, 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

(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 court, for cause shown, determines that such security is not applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of any secured claim made for the purposes of the case under chapter 13, and

‘‘(ii) a prepetition 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 Landed Personal Property Under Assumption.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

‘‘(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.

‘‘(A) If the debtor in a case under chapter 13 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 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 3601 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 225, is amended—

(A) in clause (i), by striking ‘‘and’’ at the end; and

(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, then each such payment shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan.’’;

(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 an order for relief, whichever is earlier, in the amount—

‘‘(A) proposed by the plan to the trustee;’’

and

‘‘(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 placing the trustee with evidence of such payment, including the amount and date of payment; and

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“(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 particular fulfillment of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and provided with regard to such payment, including the amount and date of payment.

(2) A payment made under paragraph (1)(A) or (B) shall be applied to the satisfaction of the claim in the order in which such claim is allowed, and shall not affect the claims of other creditors with respect to the same property.

(3) Subject to subsection 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 503(b) of title 11, United States Code, is amended to read as follows:

“(1) consumer debts owed to a single creditor for 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 is submitted to be nondischargeable; and

“(2)(A) if the debtor files with the court an adequate financial statement satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist 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 court 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—

“(ii) 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 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 305, is amended by inserting after paragraph (3) the following:

“(22) Subject to subsection (1), 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 not filed a verified application of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and provided with regard to such payment, including the amount and date of payment.

“(3) 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 and with respect to which the lessor has not filed a verified application for the prompt transmittal of the rent deposited after that judgment for possession was entered, and has made the appropriate deposits in accordance with paragraph (1)(B) to the lessor.

“(C) if the debtor fails to file, within 15 days, an objection under paragraph (1)(A) to the truth or legal sufficiency of the lessor's certification described in subsection (b)(23).

“(26) A certified copy of the certification described in subsection (b)(23) shall be served on the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under subsection (b).

“(B) If the debtor files and serves the objection under paragraph (1), 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 court 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 court 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—

“(iii) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to recover full possession of the property; 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. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—
(a) DEFINITION. —Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

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(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) nothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio; and

''(v) 1 VCR;

''(vi) linens;

''(vii) china;

''(viii) crockery;

''(ix) educational materials and educational equipment primarily for the use of minor children of the debtor;

''(x) medical equipment and supplies;

''(xi) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

''(xii) 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, 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 so 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 shall include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.
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household in which the debtor resides.

(2) The tax returns, amendments, and
required by subsection (a)(1) if the court finds jus
tifation for extending the period for the fil-
tion not later than 5 days after such re-
(3) Subject to paragraph (4) and upon re-
quest of the debtor made within 45 days after
the date of the filing of the petition de-
scribed in paragraph (1), the court may allow
the debtor an additional period of time to ex-
cede 45 days to file the information required
under subsection (a)(1) if the court finds jus-
tification for extending the period for the fil-
ing for purposes of this subsection, the ‘‘applicable commitment period’’—
(4) (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 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 ear;
(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 individ-
als; 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.

(1) 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:

(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 court shall automatically dis-

(2) Subject to paragraph (4) and with re-
spect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If re-
quested, the court shall enter an order of-
dismissal not later than 5 days after such re-
quest.

(3) Subject to paragraph (4) and upon re-
quest of the debtor made within 45 days after
the date of the filing of the petition de-
scribed in paragraph (1), the court may allow
the debtor an additional period of time to ex-
cede 45 days to file the information required
under subsection (a)(1) if the court finds jus-
tification for extending the period for the fil-

(4) Notwithstanding any other provision of
this subsection, on the motion of the trustee filed before the expiration of the ap-
plied period of time specified in paragraph
(1), (2), (3), or (4), the court may extend the
period for the filing of the information re-
quired under subsection (a)(1) if the court finds jus-
tification for extending the period for the fil-
ing for purposes of this subsection, the ‘‘applicable commitment period’’—

(2) Subject to paragraph (4) and with re-
spect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If re-
quested, the court shall enter an order of-
dismissal not later than 5 days after such re-
quest.

(3) Subject to paragraph (4) and upon re-
quest of the debtor made within 45 days after
the date of the filing of the petition de-
scribed in paragraph (1), the court may allow
the debtor an additional period of time to ex-
cede 45 days to file the information required
under subsection (a)(1) if the court finds jus-
tification for extending the period for the fil-

(4) Notwithstanding any other provision of
this subsection, on the motion of the trustee filed before the expiration of the ap-
plied period of time specified in paragraph
(1), (2), (3), or (4), the court may extend the
period for the filing of the information re-
quired under subsection (a)(1) if the court finds jus-
tification for extending the period for the fil-

(1) SEC. 317. ADEQUATE TIME TO PREPARE FOR THE CONFIRMATION OF THE PLAN.

Section 1325 of title 11, United States Code, as amended by section 1325(b), is amended by striking ‘‘three-year period’’ and inserting ‘‘applica-

(b) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court may dismiss the case, or, if the failure to comply
or demonstrates that the failure to so com-
ply is due to circumstances beyond the con-
trol 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) not at a reasonable cost; and

(B) not later than 5 days after such re-
quest is filed.

(4) 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, each Federal income tax return required to be filed under applicable law (or at the elec-
tion 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 to be filed under applicable law (or at the elec-
tion of the debtor, a transcript of such tax return) that had not been filed with such au-
thority as of the date of the commencement of the case or later subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the com-
menment of the case;

(3) a copy of any amendment to any Fed-
eral income tax return or transcript filed with the court under paragraph (1) or (2); and

(4) a copy under chapter 15.

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 ear; or

(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 individ-
als; 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, in cases described in paragraphs (1) and (2) of subsection (a), 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—

(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 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 ear;

(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 individ-
als; 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, which
is applicable under subparagraph (A), unless the plan provides for payment in full of all allowed unsecured claims over a shorter period.

by the court 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 223, 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 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 1123(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 portion of which the plan provides payments, whichever is longer.'.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(i) of title 11, United States Code, is amended by inserting before the end of the period 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)(1) 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";

'(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 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 petition was an abuse of the provisions of this title; or

'(B) the court 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 16(a) of the Securities Exchange Act of 1934; 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) 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 petition was an abuse of the provisions of this title; or

'(B) the court 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 16(a) of the Securities Exchange Act of 1934; 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.

(b) MODIFICATION OF PLAN.—

(1) R EQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(b)(2)(B)(i) of title 11, United States Code, is amended by adding 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)(1) of this section'.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(i) of title 11, United States Code, is amended by inserting before the end of the period 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)(1) 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";

'(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 of such property 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)(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 petition was an abuse of the provisions of this title; or

'(B) the court 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 16(a) of the Securities Exchange Act of 1934; 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) 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 petition was an abuse of the provisions of this title; or

'(B) the court 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 16(a) of the Securities Exchange Act of 1934; 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.
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) by inserting “one-half” and inserting “75 percent”; and

(4) by striking “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;”.

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), 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 or concern property of title 11, United States Code, or rules relating to disclosure requirements under section 327.”.

(b) Applicability.—This section shall only apply to a case filed before the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) Amounts.—Section 101, 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) chapters 11, 12, or 13 of title 11, $150; and

(2) in paragraph (3), by striking “$800” and inserting “$1000”.

(b) United States Trustee System Fund.—Section 508(a) 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) of this title; and

(2) in paragraph (2), by striking “one-half” and inserting “75 percent”; and

(3) in paragraph (4), by striking “one-half” and inserting “one-third”;

(c) Collection and Deposit of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 406(b)), is amended by striking “pursuant to 28 U.S.C. section 1930(b)” and all that follows through “to 28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title; (d) interest on 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(b) 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 448 of title 28, United States Code, during the 5-year period ending on the date of enactment of this Act.

(2) Remainder.—Any amount described in paragraph (1), which is not used for the purposes 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 a meeting of creditors and a distribution of property to a holder of a claim for compensation or reimbursement under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of occurrence of such violation, or for any actual pecuniary loss incurred by such holder as a result of such failure; and”.

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 paragraph (2) as follows:

“(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 of a nonmonetary nature shall be determined by applying 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 personal property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind and quality that is in the same general condition of repair and property at the time value is determined.”.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) Executive 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 violation 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 the trustee if the lessee or lessor of such lease in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this chapter;”;

(B) in paragraph (2)(D), by striking “penalty rate or penalty provision” and inserting “penalty rate or penalty provision”; and

(C) by inserting “or” at the end;

(2) in subsection (c)—

(A) in paragraph (2), by inserting “or” at the end and inserting a period and

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

(4) in subsection (5)(1) by striking “; and” and inserting “; and” at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(c) 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)(2) expressly does not require to be cured” before the semicolon at the end.

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

(3) by redesignating subparagraph (D) as subparagraph (E); and

(b) 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 to a prevailing party is required by reason of the operation of this clause will not substantially increase the probability of layoff or termination of currently employed employees, or of nonpayment of domestic support obligations, during the case under this title.”;

March 11, 2005

CONGRESSIONAL RECORD — SENATE S2553
(a) CHAPrer 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 it 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 it 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”;

(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—

(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).

(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”;

(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—

(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).

SEC. 331. LIMITATION ON RETENTION BONDS, SECURITY PAY, AND CERTAIN OTHER PAYMENTS.

Section 303 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 of 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 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 10 times 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;

(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;

(C) any other transfer or obligation 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;

“(d) 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:

“(d)(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 the petition under subsection (d)(1), the court may order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681f)) from making a 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 such petition.

(3) Upon the expiration of the statute of limitations described in section 332 of title 11, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and or for good cause, may expunge any records relating to a petition filed under this section.

(c) BANKRUPTCY FRAUD.—Section 157 of title 11, 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


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:


(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),—

(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization’s regulatory powers;

(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 powers; 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. 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) Subject to subparagraph (B), an unexpired lease of nonresidential property under which the debtor is the lessor shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, unless the trustee does not assume or reject the unexpired lease by the earlier of—

(1) the date that is 120 days after the date of the order for relief; or

(2) the date of entry of an order confirming a plan.

(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 (d)”. SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) Appointment.—Subsection (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 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) of section 545, the trustee may not avoid a lien for storage, transportation, or other costs incidental to the storage and handling of goods.

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 103-334 as subsection (b);

(2) in subsection (b), 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”;

(3) by adding at the end the following:

"(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a 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 applicable nonbankruptcy law.

"(3) As a condition precedent for purposes of this subsection, the aggregate amount of which, in comparison to the annual gross revenue of a creditor 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, 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 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.

SEC. 407. AMENDMENTS TO SECTION 330 OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in subsection (a), by striking “subsection (b)” and inserting “subsection (b) and (c)”; and

(2) by adding at the end the following:

"(1) the trustee elected under paragraph (1) shall be considered to have been selected and appointed 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.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking “subsection (b)” and inserting “subsection (b) and (c)”; and

(2) by adding at the end the following:

"(1)(A) For purposes of this subsection, the term “assurance of payment” means—

"(i) a cash deposit;"

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 306 of title 11, United States Code, as amended—

(1) in subsection (a)(1), by inserting before the semicolon "and" after the word "adequate" the following: "(a) in determining whether 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 or plan confirmation shall be by written ballot and received at least 21 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 1101 of title 11, United States Code, as amended by striking paragraph (5)(A)(i) and inserting the following:

(5)(A) ‘‘small business case’’ means a case filed under chapter 11 of this title in which the debtor is a small business debtor:

(ID) ‘‘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 and the gross income of which (or of which the public interest in fair and efficient procedures under chapter 11 of this title, the United States Code, to establish forms to be used to provide information including:

(i) in compliance in all material respects with the requirements imposed by this title and the Federal Rules of Bankruptcy Procedure and

(ii) timely filing tax returns and other required information filings, and payment of taxes and other administrative expenses when due;

(B) if the debtor is not in compliance with the requirements 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 306 of title 11, United States Code, as added by subsection (a).

SEC. 433. STANDARD FORM DISCLOSURE STATEMENTS.

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 1101 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 Requirement.—

(i) In general.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

‘‘308. Debtor reporting requirements

(1) 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.

(2) a small business debtor shall file periodic financial and other reports containing information including:

(i) the debtor’s profitability;

(ii) a disclosure statement provides adequate information and that a separate disclosure statement is not necessary;

(iii) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28, and

(iv) the debtor’s profitability;

(b) Clerical Amendment.—The table of sections for chapter 3 of title 11, United States Code, as added 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 306 of title 11, United States Code, as added by subsection (a).
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 the following sentence to the end:

"§ 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, an amended petition file not later than 7 days after the date of the order for relief; and

(2) in paragraph (6), by striking the period "or" and inserting "and".

(b) DUTIES IN OTHER CASES.—Section 1105(e)(1) 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:

"I 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, 365, and 311, is amended—

(1) in subsection (k), as so redesignated by section 106(d), by striking "An" and inserting "1" except as provided in paragraph (2), an"; and

(2) by adding at the end the following:

"(m) 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; or

(B) was a debtor in a small business case that was dismissed or converted as a result of 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; or

(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 (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 that were unforeseeable at the time the case was pending; and

(ii) it is more likely than not that the commencement of a case under chapter 11 is 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) Except as provided in paragraph (2) of this subsection, subsection (c) of this section (section 360(b)(4) of title 11) 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 11 of title 11, if it finds that the requested conversion or dismissal is in the best interests of creditors and the estate, the court shall order conversion of the case under this chapter.

(2) In any case in which the United States trustee finds that 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.

(b) SEC. 440. SECURED CREDITORS.

Section 506(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:

"I hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".
"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1128(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 as described in paragraph (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 subsection (a) 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) unexplained failure to satisfy timely any filing or reporting requirement established 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); and

(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—(1) Section 1106(a) of title 11, United States Code, is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "and"

(C) 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 Office of Management and Budget, the Director of the Administrative Office of the United States Courts, and the Administrator of the Federal Trade Commission, 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;

(2) report 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(b)(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 property; or

(ii) are in an amount equal to interest at the 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 property, less any reduction of the property's rental value by a court ruling upon the lease or a lease that was assumed and rejected by the party in possession of the property, other than a claim secured by a judgment lien or an unamated statutory lien; and

"(8) 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 property, less any reduction of the property's rental value by a court ruling upon the lease or a lease that was assumed and rejected by the party in possession of the property, other than a claim secured by a judgment lien or an unamated statutory lien; and

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, 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"

(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 TRUSTEE—(1) in paragraph (5), by striking "or" at the end;

(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 such administrator;"

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by sections 192 and 219, is amended—

(1) in paragraph (10), by striking "and" at the end;

SEC. 447. APPOINTMENT OF COMMITTEE OF REPRESENTED EMPLOYEES.

Section 1114(d)(1) 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 521(d)(1) of title 11, United States Code, as amended, is amended by striking "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 501 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:

"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, 566," after "553,"; and

(2) by inserting "559, 560, 561, 562," after "555.,";

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Section 521(a) of title 11, 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); and

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

"(3) thereafter, and 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 prepared, by chapter, with respect to title 11;

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

(3) include information concerning—

(A) the total assets and total liabilities of the debtors described in subsection (a), and in each case the amount 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 13 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) the total number of reaffirmation agreements filed;

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

(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;

(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) in 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:

8589b. 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 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 the 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 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 information 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 706(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, at the 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 prepared 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; and

(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 recovery of each class of claims 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:

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by bankruptcy judges and banks) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the reasonableness, veracity, completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1302 of title 11, United States Code, and, if applicable, section 1111 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 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.

(b) PROCEDURES.—Those procedures required by paragraph (1) shall—

(1) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(2) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each judicial district shall be selected for audit;

(3) require audits of schedules of income and expenses that reflect greater than average variance 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

(4) establish procedures for providing, not less frequently than annually, public information concerning the 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:

(1) The United States trustee for each district is authorized to require 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 creditor.

(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

(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:

“(B) the debtor has failed to explain satisfactorily—

(A) a material misstatement in an audit referred to in section 586(f) of this title; 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 PROFESSIONAL FEES.

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 PROFESSIONAL FEES

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 unavailable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this section)”;

(2) in subsection (b)(2), by inserting “except that such expenses, other than claims for wages, salaries, or commissions that arise under which a governmental unit designates 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. 702. TREATMENT OF FUEL TAX CLAIMS.

(a) Amended Title.—Chapter 5 of title 11, United States Code, is amended by adding at the end of the said chapter 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)(1) In the case of taxes paid under a confirmed plan under this title or during which collection was pending for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition” and inserting “for a taxable year ending on or before the date of the filing of the petition”;

“(b) (2) by striking “or” at the end and inserting “; or”;

“(c) by striking “exclusive of taxes payable under a confirmed plan under this title or during which collection was pending for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”.

“(b) (2) by striking “or” at the end and inserting “; or”;

“(c) by striking “exclusive of taxes payable under a confirmed plan under this title or during which collection was pending for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”.

“(b) (2) by striking “or” at the end and inserting “; or”;

“(c) by striking “exclusive of taxes payable under a confirmed plan under this title or during which collection was pending for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”;

“(d) by inserting “or” at the end and inserting “; or”;

“(e) by adding at the end the following:

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(7) of this title;

“(3) by striking “for a taxable year ending on or before the date of the filing of the petition after “gross receipts”.3

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 506(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”; and

(3) by striking “(A) such governmental unit” and inserting “(1) such governmental unit”.

SEC. 704. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8) of title 11, United States Code, is amended by striking “as assessed” and inserting “incurred”.

SEC. 705. NO DISCHARGE OF FRAUDENTIAL TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking “in the case of a debtor filing an adversary proceeding” and inserting “section 506(b)(6) of title 11 or in paragraph (1)(B), (1)(C),”.

SEC. 710. PRIORITY TAXES.
SEC. 706. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 221 and 330, is amended by inserting the following:

(2) by adding at the end the following:

SEC. 707. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(9) 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 tax period ending before the date of the order for relief under this title.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11.

Section 1129(a)(9) of title 11, United States Code, is amended—

(2) by adding at the end the following:

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(b) of title 11, United States Code, is amended by inserting the following before the semicolon at the end of the following:

(2) by adding at the end the following:

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 by—

(1) by inserting the following:

SEC. 713. DISCHARGE OF THE ESTATE’S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 763, is amended by inserting the following after "the estate," after "misrepresentation":

SEC. 714. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 11 CASES.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 202, 215, and 306, is amended by adding the following:

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

SEC. 715. ESTATE'S RESPONSIBILITY FOR LIEN OR INTEREST TO COMPLY.

Section 520 of title 11, United States Code, is amended by adding the following after "the estate":

1308. Filing of prepetition tax returns.

(a) Not later than the date on which the parties to a case in which the debtor is a personal representative of an estate that has filed a petition under chapter 11, the court may grant a 2-year 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.

(b) 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—

(1) a period of not more than 30 days for returns described in paragraph (a) of section 7202 of the Internal Revenue Code of 1986, or a similar State or local law.

(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.

9308. Filing of prepetition tax returns.

(a) Not later than the date on which the parties to a case in which the debtor is a personal representative of an estate that has filed a petition under chapter 11, the court may grant a 2-year 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.

(b) 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—

(1) a period of not more than 30 days for returns described in paragraph (a) of section 7202 of the Internal Revenue Code of 1986, or a similar State or local law.

(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.

9308. Filing of prepetition tax returns.

(a) Not later than the date on which the parties to a case in which the debtor is a personal representative of an estate that has filed a petition under chapter 11, the court may grant a 2-year 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.

(b) 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—

(1) a period of not more than 30 days for returns described in paragraph (a) of section 7202 of the Internal Revenue Code of 1986, or a similar State or local law.

(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.
(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 11 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 such section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which the debtor filed all tax returns required under such 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

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 a transfer of property from the debtor, any successor to the debtor, an hypothetical investor typical of the holders of claims or interests in the case," after "records," and;

(2) by inserting after "information" the following: "includ[e]s an explanation of the tax consequences of such transfer to or from the estate, a similar reduction in the tax attributes of indebtedness in a case under this title, and the income, gain, loss, deductions, and credits which such estate is subject to tax under any applicable nonbankruptcy law.".
(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 RETURN

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 within 90 days 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

“Sec.

1501. Purpose and scope of application

1502. Definitions

1503. International obligations of the United States

1504. Commencement of ancillary case

1505. Authorization to act in a foreign country

1506. Right of direct access

1507. Limited jurisdiction

1508. Participation of a foreign representative in a case

1509. Access of foreign creditors to a case

1510. Notification to foreign creditors concerning a case

1511. Coordination of more than 1 foreign proceeding

1512. Effect of recognition of a foreign main proceeding

1513. Relief that may be granted upon filing petition for recognition

1514. Protection of creditors and other interested persons

1515. Actions to avoid acts detrimental to creditors

1516. Prevention by a foreign representative

1517. Cooperation and direct communication between the court and foreign courts or foreign representatives

1518. Forms of cooperation.

SUBCHAPTER V—CONCURRENT PROCEEDINGS

1526. Cooperation and direct communication between the court and foreign courts or foreign representatives

1527. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

1528. Commencement of a case under this title after recognition of a foreign main proceeding

1529. Coordination of a case under this title and a foreign proceeding

1530. Coordination of more than 1 foreign proceeding

1531. Presumption of insolvent bankruptcy in a foreign main proceeding

1532. Rule of payment in concurrent proceedings

1501. Purpose and scope of application

(a) The purpose of this chapter is to incorporate the principles of 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 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 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(c) 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 bankruptcy proceeding or subchapter III of chapter 7 of this title, or a commodity futures broker subject to subchapter IV of chapter 7 of this title;

(d) The court may not grant relief under this chapter in the following circumstances:

(1) if the case is dismiss

(e) 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; and

(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 plan prescribed by the court; and

(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

1502. Definitions

(a) For the purposes of this chapter, the term—

(1) ‘debtor’ means an entity that is the subject of a foreign main proceeding; and

(2) ‘establishment’ means any place of operations where the debtor carries on a non- transitory economic activity;

(3) ‘foreign main proceeding’ 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 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) ‘foreign courts or foreign representatives’ means the courts and representatives in foreign countries having jurisdiction over the debtor.

1503. International obligations of the United States

(a) 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) 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) A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country having an estate created under section 341. 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; and

(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 plan prescribed by the court; 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 com-
come a case under section 1504 by filing di-
rectly with the court a petition for recogni-
tion of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section
1515, and subject to any limitations that the
court may impose consistent with the
policy of this chapter—

"(1) the foreign representative has the ca-
pacity 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 recogni-
tion under section 1517.

"(d) If the court denies recognition under
this chapter it may issue any appro-
priate order necessary to prevent the foreign
representative from obtaining comity or co-
operation from courts in the United States.

"(e) Whether or not the court grants rec-
ognition, and subject to sections 306 and 1510,
a foreign representative is subject to appli-
cable nonbankruptcy law.

"(f) For any other provision of this section, the failure of a for-
erepresentative to commence a case or to obtain
recognition under this chapter does not af-
fect 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 representa-
tive files a petition under section 1515 does
not subject the foreign representative to the
jurisdiction of any court in the United States
other than the court granting recognition.

§ 1511. Commencement of case under section
301 or 303

"(a) Upon recognition, a foreign repre-
sentative may commence

"(1) an involuntary case under section 303;

"(2) a voluntary case under section 301 or
302, if the foreign proceeding is a for-

"(b) The petition commencing a case under
subsection (a) must be accompanied by a cer-
tified 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 commen-
cement.

§ 1512. Participation of a foreign representa-
tive in a case under this title

"Upon recognition of a foreign proceeding,
the foreign representative, once the for-

"(a) Foreign creditors have the same rights
regarding the commencement of, and partici-
pation 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 with-
out priority status.

"(2) The holder of such claim shall be
recognized as a foreign representative.

"(3) If the court determines that the
foreign representative is entitled to
priority or that the foreign representative
is the holder of such claim, the court shall
grant recognition subject to any applicable
law.

§ 1514. Notification to foreign creditors con-
cerning 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 of creditors, such notice shall
be given individually, unless the court
considers that, under the circumstances,
such notice would be more appropriate. No letter or other for-
mality is required.

"(b) A request for notification to creditors
of a foreign representative or foreign nonmain proceeding shall be entered if

"(1) the grounds for granting recognize-
tion are shown;

"(2) a foreign representative or foreign nonmain proceeding is in the United States;

"(3) a hearing shall be held; and

"(4) a certificate of the decision or certificate of the hearing shall be filed with the court.

"(c) In the absence of evidence to the con-
trary, the debtor’s registered office, or habit-
ual 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 granting a foreign
proceeding shall be entered if

"(1) such foreign proceeding for which rec-
novation is sought is a foreign main pro-
ceeding or foreign nonmain proceeding with-
in the meaning of section 1502;

"(2) the foreign representative for whom rec-
novation is sought has been

"(b) Such foreign proceeding shall be rec-
ognized

"(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 estatutory, legal, or other
property interest in the country where the
proceeding is pending.

"(c) A petition for recognition if it is filed
within the meaning of section 1502 in the for-
;

"(d) An order granting recognition of a for-
erepresentative from obtaining comity or co-
operation for any other purpose.

"(e) Whether or not the court grants rec-
ognition, and subject to sections 306 and 1510,
a foreign representative is subject to appli-
cable nonbankruptcy law.

"(f) For any other provision of this section, the failure of a for-
erepresentative to commence a case or to obtain
recognition under this chapter does not af-
fect 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.

§ 15110. Limited jurisdiction

"The sole fact that a foreign representa-
tive files a petition under section 1515 does
not subject the foreign representative to the
jurisdiction of any court in the United States
other than the court granting recognition.

§ 1511. Commencement of case under section
301 or 303

"(a) Upon recognition, a foreign repre-
septative may commence

"(1) an involuntary case under section 303;

"(2) a voluntary case under section 301 or
302, if the foreign proceeding is a for-

"(b) The petition commencing a case under
subsection (a) must be accompanied by a cer-
tified 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 commen-
cement.

§ 1512. Participation of a foreign representa-
tive in a case under this title

"Upon recognition of a foreign proceeding,
the foreign representative, once the for-

"(a) Foreign creditors have the same rights
regarding the commencement of, and partici-
pation 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 with-
out priority status.

"(2) The holder of such claim shall be
recognized as a foreign representative.

"(3) If the court determines that the
foreign representative is entitled to
priority or that the foreign representative
is the holder of such claim, the court shall
grant recognition subject to any applicable
law.

"(4) The provisions of this subchapter do
not prevent modification or termination of a foreign proceeding if it is shown that
reasonable grounds for granting it were fully or partially lack-
ing or have ceased to exist, but in consid-
ering such action the court shall give due
weight to possible prejudice to parties that
have relied upon the order granting recogni-
tion. A case under this chapter may be
closed in the manner prescribed under sec-
tion 350.

§ 1518. Subsequent information

"From the time of filing the petition for
recognition of a foreign proceeding, the for-

"(1) any substantial change in the status of
such foreign proceeding; and

"(2) any other proceeding regarding the debtor that becomes known to the for-
erepresentative.

"(b) The petition meets the requirements of
section 1515.

"(c) Such foreign proceeding shall be rec-
ognized

"(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 estatutory, legal, or other
property interest in the country where the
proceeding is pending.

"(d) An order granting recognition if it is filed
within the meaning of section 1502 in the for-

"(e) Whether or not the court grants rec-
ognition, and subject to sections 306 and 1510,
a foreign representative is subject to appli-
cable nonbankruptcy law.

"(f) For any other provision of this section, the failure of a for-
erepresentative to commence a case or to obtain
recognition under this chapter does not af-
fect 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.

§ 15110. Limited jurisdiction

"The sole fact that a foreign representa-
tive files a petition under section 1515 does
not subject the foreign representative to the
jurisdiction of any court in the United States
other than the court granting recognition.

§ 1511. Commencement of case under section
301 or 303

"(a) Upon recognition, a foreign repre-
septative may commence

"(1) an involuntary case under section 303;

"(2) a voluntary case under section 301 or
302, if the foreign proceeding is a for-

"(b) The petition commencing a case under
subsection (a) must be accompanied by a cer-
tified 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 commen-
cement.

§ 1512. Participation of a foreign representa-
tive in a case under this title

"Upon recognition of a foreign proceeding,
the foreign representative, once the for-

"(a) Foreign creditors have the same rights
regarding the commencement of, and partici-
pation 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 with-
out priority status.

"(2) The holder of such claim shall be
recognized as a foreign representative.

"(3) If the court determines that the
foreign representative is entitled to
priority or that the foreign representative
is the holder of such claim, the court shall
grant recognition subject to any applicable
law.
§1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

(a) Consistent with section 1501, the trustee or another 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, subject to the rights of a party in interest to notice and participation.

(b) The trustee or another person, including an examiner, authorized by the court, may participate in proceedings before a foreign court or in communications with a foreign representative.

§1527. Forms of cooperation

“Cooperation referred to in sections 1526 and 1528 may be evidenced 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 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 territorial jurisdiction of the United States, if under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are 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) The court may order the trustee 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.

(2) If a case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

(a) any relief granted in section 1519 or 1521 must be consistent with the relief granted in the case in the United States.

(b) any relief granted in section 1519 or 1521 shall be reviewed by the court and may 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 1528(a) shall be modified or terminated if inconsistent with the relief granted by the United States Code.

“3. In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief granted, 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 1535.

“§ 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 nonmain 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 903, 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 or a law relating to insolvency or dissolution 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.

“CLERICAL AMENDMENT. The table of titles for chapter 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Proceedings ...................................... 1501”.

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY TO CHAPTER 11—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(e), 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 1655, 1653, and 1654 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:

“(22) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or reorganization of a debtor in which the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

“(23) ‘foreign representative’ means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding (whether before reorganization or after reorganization) to reorganize or liquidate the assets or affairs of the foreign representative to administer the reorganization or 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”;

(C) by inserting the following:

“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 157 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”. 

(d) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking “or 13” and inserting “, 13, or 15”.

(e) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Subsections (a) and (b) of 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;

“(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 foreign insurance company, engaged in such business in the United States;

“(4) 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 3(b) of the International Banking Act of 1978 in the United States);

“(5) in section 303, by striking subsection (k);

“(6) by striking section 304;

“(7) in the table of sections for chapter 3 by striking the item relating to section 304;

“(8) by striking “306” by striking “306”, each place it appears;

“(9) in section 305(a) by striking paragraph (2) and inserting the following:

“(2) 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.”;

(7) in section 506—

(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)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply;”;

(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)(B) of the Federal Credit Union Act (12 U.S.C. 1767(c)(8)(B)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply;”;

(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; or

“(II) does not include a contract to purchase or sell any security, certificate of deposit, mortgage loan, interest, group or index, or option; or

“(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 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; or

“(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; and

“(VII) means any combination of the agreements or transactions referred to in this clause.

“(2) FDIC-INSURED DEPOSITORY INSTITUTIONS.—This paragraph applies to 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), (VIII), or (IX), together with all supplements to any such master agreement, whether or not such agreement or transaction is a securities contract under this clause, except that the master agreement shall be deemed to be a securities contract only with respect to any agreement or transaction that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), or (IX); 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.

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 207(c)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1829(r)(8)(D)(ii)) is amended to read as follows:

(II) 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 commodity options clearing organization, a contract for the purchase of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

(V) with respect to a foreign futures commission merchant, a foreign futures commission merchant agreement or transaction referred to in this clause.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(i) of the Federal Credit Union Act (12 U.S.C. 1789(c)(8)(D)(i)) is amended to read as follows:

(II) SECURITIES CONTRACT.—The term "securities contract" means:

(I) a contract (other than a commodity contract) for the purchase, sale, or exchange of a security, a certificate of deposit, mortgage loan, or any interest therein in a mortgage loan, a group or index of securities, certificates of deposit, 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 unallocated transaction, or any other similar agreement, without regard to whether the master agreement or transaction referred to in this clause is entered into 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;

(II) any 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 or transaction referred to in this clause is entered into in a commercial mortgage loan, a group or index of securities, certificates of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction, or any security agreement, certificate of deposit, mortgage loan, interest, group or index, or option;

(III) any agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(IV) any combination of the agreements or transactions referred to in this clause;

(V) any agreement or transaction referred to in this clause;

(VI) any agreement or transaction referred to in this clause;

(VII) any combination of the agreements or transactions referred to in this clause;

(VIII) any agreement or transaction referred to in this clause;

(IV) forward contract.—The term "forward contract" means:

(I) any 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, whether or not such agreement or transaction is a securities contract under this clause, except that the master agreement shall be deemed to be a securities contract only with respect to any agreement or transaction that is referred to in subclause (I), (III), (IV), (V), (VI), or (VIII); and

(V) with respect to a commodity options dealer, a commodity option;

(VI) any agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(VIII) any option to enter into any agreement or transaction referred to in this clause;

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1789(c)(8)(D)(iv)) is amended to read as follows:

(IV) forward contract.—The term "forward contract" means—
Def. (V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any such subclause (I), (II), (III), (IV), or (V); or

(VI) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), (IV), or (V); and

(VII) any security agreement or arrangement or other credit enhancement related to 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 any agreement or transaction referred to in any such subclause.

(VIII) any agreement or transaction referred to in subclauses (I) and (III);

(IX) any agreement or transaction referred to in subclauses (I) and (II);

(X) any agreement or transaction referred to in any 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 referred to in subclause (I), (II), or (III), or (IV); and

(11) any combination of agreements or transactions referred to in subclauses (I) and (III).

(ii) FDIC-insured depository institutions—Section 207(c)(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) REPOUCHASE AGREEMENT—The term ‘repo agreement’ (which definition also applies to a reverse repo agreement)—

(1) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities, mortgage loans, or interests in a simultaneous agreement by such transferee to transfer to the transferee thereof certificates of deposit, mortgage-related securities, mortgage loans, or interests 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;

(2) 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 subclause (I) and (IV);

(IV) means any option to enter into any agreement or transaction referred to in subclause (I) and (IV);

(V) means any agreement that provides for an agreement or transaction referred to in subclauses (I), (III), and (IV), together with all supplements to any such agreement or transaction referred to in subclause (I) and (IV), 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 any agreement or transaction referred to in any such subclause.

(2) INSURED CREDIT UNIONS—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPOUCHASE AGREEMENT—The term ‘repo agreement’ (which definition also applies to a reverse repo agreement)—

(1) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities, mortgage loans, or interests in a simultaneous agreement by such transferee to transfer to the transferee thereof certificates of deposit, mortgage-related securities, mortgage loans, or interests 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;

(2) 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 referred to in subclause (I), (III), or (IV); and

(VI) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any such subclause.

Section 11(e)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPOUCHASE AGREEMENT—The term ‘repo agreement’ (which definition also applies to a reverse repo agreement)—

(1) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities, mortgage loans, or interests in a simultaneous agreement by such transferee to transfer to the transferee thereof certificates of deposit, mortgage-related securities, mortgage loans, or interests 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;

(2) 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) and (IV);

(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 agreement or transaction referred to in subclause (I), (III), or (IV), 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 any agreement or transaction referred to in any such subclause.

(2) INSURED CREDIT UNIONS—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPOUCHASE AGREEMENT—The term ‘repo agreement’ (which definition also applies to a reverse repo agreement)—

(1) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities, mortgage loans, or interests in a simultaneous agreement by such transferee to transfer to the transferee thereof certificates of deposit, mortgage-related securities, mortgage loans, or interests 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;

(2) 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 referred to in subclause (I), (III), or (IV); and

(VI) any security agreement or arrangement or other credit enhancement related to 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 any agreement or transaction referred to in any such subclause.

Section 11(e)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT—The term ‘swap agreement’ means—

(1) 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 corridor, a weather index, a weather derivative, or any agreement or transaction similar to any other agreement or transaction referred to in this clause and that is a swap agreement, or that has become, 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 other similar agreements or transactions referred to in this clause;

(2) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is an agreement that has become, 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 other similar agreements or transactions referred to in this clause;

(3) any combination of agreements or transactions referred to in this clause;

(4) any option to enter into any agreement or transaction referred to in this clause;

(V) any option to enter into any agreement or transaction referred to in any such subclause.

(2) INSURED CREDIT UNIONS—Section 207(c)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) SWAP AGREEMENT—The term ‘swap agreement’ means—

(1) 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 corridor, a weather index, a weather derivative, or any agreement or transaction similar to any other agreement or transaction referred to in this clause and that is a swap agreement, or that has become, 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 other similar agreements or transactions referred to in this clause;

(2) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is an agreement that has become, 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 other similar agreements or transactions referred to in this clause;
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 1999.

(e) DEFINITION OF TRANSFER.—
(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—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:

“(viii) TRANSFER.—The term ‘transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntarily, 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)) 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 involuntarily, 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.”

(b) 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 (9)” and inserting “paragraphs (9) and (10)”;
(ii) in clause (i), by striking “cause the termination of the contract in accordance with subclauses (I) and (II)” and inserting “cause the termination of the contract in accordance with paragraphs (9) and (10)”;
(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);”

(B) in subparagraph (B), by striking clause (i) and inserting the following:

“(i) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);”

(C) by striking paragraph (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.—
(1) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (B), and section 463 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.

(iii) 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 such 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 by inserting “or the exercise of rights or powers by” after the appointment of”.

(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 (e)(1) of this section.

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subsection (A)) is amended to read as follows:

"(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

"(1) 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 the parties in accordance with its terms upon termination, liquidation, or termination 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 AMENDMENTS.—Section 203(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1814z-4(a)(12)) is amended by inserting ‘or the exercise of rights or powers by’ after ‘the appointment of’.

SECTION 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)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1812(e)(10)) is amended to read as follows:

"(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract of a 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 contracts of deposit); under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution); and

"(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 clause (I) or any claim described in clause (II) or (III) under any such contract; or

"(ii) transfer all 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 FOREIGN 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 transfer 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 under the laws applicable to such foreign 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 conservator or receiver for such 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 case of a depository institution, or a branch or agency of a foreign bank or financial institution, the depository institution or any subsidiary thereof, 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, the following provisions shall apply:

"(i) A depository institution.

"(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 203(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

"(2) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(10) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(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. 1812(e)(10)) is amended—

"(A) by redesignating subparagraph (B) as subparagraph (C),

"(B) by inserting after subparagraph (A) the following new subparagraphs:

"(b) CERTAIN RIGHTS NOT ENFORCEABLE.—In the event of a receivership or, under subparagraph (A), the determination by the Corporation, for which a conservator is 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 contracts of deposit); under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union and

"(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 clause (I) or any claim described in clause (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 FOREIGN FINANCIAL INSTITUTION—

"(I) all 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 under the laws applicable to such foreign 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 party to a qualified financial contract, netting contracts, credit 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 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 related 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, solely by reason of the appointment of the liquidating agent; or

"(iii) Notice.—For purposes of this paragraph, the Board as conservator or liquidating agent shall be deemed to have notified a party who is a party to a qualified financial contract with such credit union if the Board has taken steps to provide notice to such person by the time specified in subparagraph (A).

"(E) 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 liquidating agent 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 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1877(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.’’.

(b) 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. 1877(c)(10)) is amended—

"(A) by redesignating subparagraph (B) as subparagraph (D); and

"(B) by inserting after subparagraph (A) the following new subparagraph:

"’’(C) 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 483 or 484 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 shall be deemed to have notified a party who is a party to a qualified financial contract with such credit union if the Board has taken steps to provide notice to such person by the time specified in subparagraph (A).

"(ii) 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 liquidating agent 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—

"(D) 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.’’.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1877(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 905) 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. 905. AMENDING 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.’’

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. 4802) is amended—

"(A) in paragraph (5), by inserting before the semicolon ‘‘, or is exempt from such registration by order of the Securities and Exchange Commission’’;

"(B) in paragraph (10), by inserting before the period ‘‘, or that is a multilateral clearing organization (as defined in section 408 of this Act)’’.;;
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 are enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code)."

(c) REGULATORY AUTHORITY.

(1) In general.—The Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System, shall each ensure that regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted 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 section 409 of this Act. In consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

(a) 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 1991.

(b) Treatment of contracts.—In general.—No contract entered into between a Federal branch or Federal agency and a foreign bank on or after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 shall be stayed, avoided, or otherwise set aside, unless such contract is a transaction entered into in the ordinary course of business and is valid at the time of entering into such contract, and unless such contract is a transaction that is not a forward contract or transaction referred to in subparagraph (A).

(c) Enforcement.—A creditor of a Federal branch or Federal agency with respect to a contract referred to in subparagraph (A) may enforce such contract in accordance with its terms, unless the contract is a transaction that is not a forward contract or transaction referred to in subparagraph (A).

(d) Additional requirements.—In addition to the requirements contained in paragraphs (1) and (2), any contract entered into between a Federal branch or Federal agency and a foreign bank shall be enforceable in accordance with its terms if such contract is a transaction that is not a forward contract or transaction referred to in subparagraph (A).
with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); and

(2) 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 such master agreement, 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(3) any 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(4) any 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(5) any 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(6) any 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(7) any 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(A) means—

(i) any agreement, including the terms and conditions incorporated by reference in such agreement, that is an interest rate swap, option, future, or forward agreement, including a rate floor, cap, cap/floor, corridor, constant maturity swap, cross-currency rate swap, and basis swap;

(ii) a spot, same-day-tomorrow, tomorrow-next, or other foreign exchange or precious metals agreement;

(iii) a currency swap, option, future, or forward agreement;

(iv) an 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;

(viii) a weather index or weather derivative, or weather option;

(ix) any agreement or transaction that is similar to an agreement or transaction referred to in clause (ii), (iii), (iv), (v), or (vi), 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 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

(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 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; and

(D) in paragraph (48), by inserting ‘‘, or except from such registration under such section pursuant to an order of the Securities and Exchange Commission,’’ after ‘‘1934’’; and

(E) by amending paragraph (33B) to read as follows:

(33B) ‘‘swap agreement—’’

(A) means—

(i) any agreement, including the terms and conditions incorporated by reference in such agreement, that is—

(I) an interest rate swap, option, future, or forward agreement, including a rate floor, cap, cap/floor, corridor, constant maturity swap, cross-currency rate swap, and basis swap;

(II) a spot, same-day-tomorrow, tomorrow-next, or other foreign exchange or precious metals agreement;

(III) a currency swap, option, future, or forward agreement;

(IV) an 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;

(VIII) a weather index or weather derivative, or weather option;

(ix) any agreement or transaction that is similar to an agreement or transaction referred to in clause (ii), (iii), (iv), (v), or (vi), 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 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), (ii), (iii), or (iv); or

(vii) 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 affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(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, collateral, a margin 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 any agreement 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; or

(ii) an 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 an interest therein or based on the value thereof), or option on any of the foregoing, including any agreement 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) any agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), or (vi), 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, and shall not be construed or applied so as to affect the characterisation, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Commodity Exchange Act, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, or the laws of any State or Territory of the United States, that is similar to an agreement or transaction referred to in this subparagraph.

(3) in section 761(4)—

(A) by striking ‘‘or’’ at the end of subpara- graphs; 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 subparagraph;’’ and

(G) any combination of the agreements or transactions referred to in this paragraph;
right, or interest which is presently or in the
section 402 of the Federal Deposit Insurance
mements or transactions with the debtor or any
$1,000,000,000 in notional or actual principal
or more agreements or transactions de-
security contract (as defined in section 741)
for a customer in connection with a se-
entity and, when any such Federal reserve
an agreement or transaction referred to in
of section 561(a), or any security
or more of the foregoing, including any guarantee or reim-
ment or against cash, securities, or other
netting agreement participant under or in connection with
any agreement or transaction referred to in
by adding at the end the following:
(B) in paragraph (7), by inserting ", pledged
and (C) by striking paragraph (17) and inserting the follow-
with a master netting agreement or any in-
that, with respect to a transfer under any in-
individual contract covered thereby, to the ex-
that such master netting agreement
participant otherwise did not take (or is oth-
erwise not deemed to have taken) such trans-
value.
(g) TERMINATION OR ACCELERATION OF SEC-
rates contracts.—Section 555 of title 11, United States Code, is amended—
in the section heading to read as follows:
"s 555. Contractual right to liquidate, termi-
and, or accelerate a securities contract";
and
in the first sentence, by striking "liq-
and inserting "liquidation, termina-
and, or acceleration";
(h) TERMINATION OR ACCELERATION OF COM-
bs.—Section 556 of title 11, United States Code, is amend-
ed—
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 Com-
Exchange Act Exemption from Registration as a Clearing
organization (as defined in the Federal Deposit Insurance Corporation Improvement
(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:
"(a) 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 net-
ing agreement participant under or in con-
any individual contract covered thereby that is made before the commencement of the case, except under section 546(a)(1)(A) adequate to the trustee at the time, the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.
"(f) FRAUDULENT TRANSACTIONS OF MASTER NETTING AGREEMENT.—Section 548(d)(2) of title 11, United States Code, is amended—
in subparagraph (C), by striking "and" at the end;
in subparagraph (D), by striking the per-
and inserting "and"; and
by adding at the end the following new subparagraph:
"(E) a master netting agreement partici-
that receives a transfer in connection with a master netting agreement or any in-
dividual contract covered thereby takes for value to the extent of such transfer, except
that, with respect to a transfer under any indi-
evidual contract covered thereby, to the ex-
tent that such master netting agreement
participant otherwise did not take (or is oth-
erwise not deemed to have taken) such trans-
value.
"(g) TERMINATION OR ACCELERATION OF SEC-
rates contracts.—Section 555 of title 11, United States Code, is amended—
by amending the section heading to read as follows:
"s 555. Contractual right to liquidate, termi-
and, or accelerate a securities contract";
and
in the first sentence, by striking "liq-
and inserting "liquidation, termina-
and, or acceleration";
(h) TERMINATION OR ACCELERATION OF COM-
bs.—Section 556 of title 11, United States Code, is amend-
ed—
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 Com-
Exchange Act Exemption from Registration as a Clearing
organization (as defined in the Federal Deposit Insurance Corporation Improvement
"(f) FRAUDULENT TRANSACTIONS OF MASTER NETTING AGREEMENT.—Section 548(d)(2) of title 11, United States Code, is amended—
in subparagraph (C), by striking "and" at the end;
in subparagraph (D), by striking the per-
and inserting "and"; and
by adding at the end the following new subparagraph:
"(E) a master netting agreement partici-
that receives a transfer in connection with a master netting agreement or any in-
dividual contract covered thereby takes for value to the extent of such transfer, except
that, with respect to a transfer under any indi-
evidual contract covered thereby, to the ex-
tent that such master netting agreement
participant otherwise did not take (or is oth-
erwise not deemed to have taken) such trans-
value.
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, a futures commission merchant, a commodity broker, a national securities exchange, a national securities association, a securities association, or a 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.

(1) TERMINATION OR ACCELERATION OF REFERENCE 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 reference agreement’’;

(2) in the first sentence, by striking ‘‘liq-

u

uidation’’ and inserting ‘‘liquidation, termination, or acceleration’’; and

(3) in the second sentence, by striking ‘‘used’’ 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 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 resolution of the governing board thereof and a right.’’;

(2) 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 ‘‘termi-

nate, or accelerate a swap agreement’’ and inserting ‘‘liquidation, termination, or acceleration of one or more swap agreements’’; and

(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 acceler-
in a commodity broker liquidation and for-
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.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by inserting "in such manner only if" after "set forth in a bylaw or resolution 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 of a 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 practice under the law of the State or States in which such operation is conducted".

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1002. DEBT LIMIT INCREASE.

Section 1231(b) of title 11, United States Code, as amended by section 226, is amended by inserting "$1,500,000" after "$1,000,000".

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 226, is amended by inserting "‘101(18)’", after "‘101(17)’", each time it appears.

(b) MODIFICATION OF PLAN.—Section 1123 of title 11, United States Code, as amended by section 226, is amended by inserting "‘101(18)’", after "‘101(3)’", each time it appears.

(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 the date of the enactment of this Act.

SEC. 1004. DEFINITION OF FAMILY FARMER.

(a) FAMILY FARMER.—The term ‘family farmer’ means a family fisherman or a family fisherman with regular annual income from a commercial fishing operation, as defined in section 1005.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by striking "‘101(18)’", after "‘101(3)’", each time it appears.

TITLEx—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 102(b)(18) of title 11, United States Code, as amended by section 360, is amended by inserting "or obstetric care; and" after "20% of the aggregate income of".

(b) 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.).
“(I) ancillary ambulatory, emergency, or surgical treatment facility; “(II) hospice; “(IV) home health agency; and “(V) a 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) nursing home; “(V) domiciliary care facility; and “(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), or (IV), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidental 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 of medical, psychiatric, optical, or other form of electronic medium; “(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall be construed to meet 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 11, 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 one 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) if after providing the notification under paragraph (1), patient records are not claimed during 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 the 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 in 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 if 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 353(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 in an order to turn over to a court-appointed trustee for the protection of patient records consistent with authority of such ombudsman under title XI or title XVIII under non-Federal laws governing the State Longer-Term Care Ombudsman program.”;

(2) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, as amended by section 212, is amended by adding at the end the following: “§ 335. Appointment of ombudsman.”

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.— Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following: “§ 332. 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 protect the confidentiality of patient records, to monitor the quality of patient care provided to the patients of the health care business under the specific facts of the case, and to serve as the ombudsman required by paragraph (1), the United States trustee shall appoint a 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 shall 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 meeting of creditors, denoting 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, the court shall be notified of the written report, with notice to the parties in interest immediately upon making such determination.

(3) 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 IMPLODES SUCH OMBUDSMAN TO PROTECT THE CONFIDENTIALITY OF SUCH RECORDS.

(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 331, or’ before ‘(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, 212, 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, as amended by 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 1128A(b)(5) of the Social Security 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 the second paragraph (other than paragraph (5A)), 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 farm-er” 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: 
“(4) The term ‘transfer’ means—
(A) the creation of a lien; 
(B) the retention of a title as a security in-
terest; 
(C) the foreclosure of a debtor’s equity of re-
demption; or 
(D) each mode, direct or indirect, abso-
lute or conditional, voluntary or involun-
tary, of disposing of or parting with— 
(1) property; or 
(2) (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 para-
graph (54A) 2 ems to the right; and 
(8) in each of paragraphs (1) through (35), in each place it appears, by striking “that follows through the end of the subsection and insert-
ing:” 
(9) in paragraph (51B)—
(A) the creation of a lien; 
(B) the retention of a title as a security in-
terest; 
(C) the foreclosure of a debtor’s equity of re-
demption; or 
(D) each mode, direct or indirect, abso-
lute or conditional, voluntary or involun-
tary, of disposing of or parting with— 
(1) property; or 
(2) (ii) an interest in property;”; 
(10) in each of paragraphs (35A), (38), and (51B)—
(A) by inserting “that follows through the end of the subsection and insert-
ing:” 
(B) by striking “motor vehicle” and inserting “motor vehicle, ves-
sel, or aircraft”; and 
(3) in subsection (e), by striking “a in-
sured” and inserting “an insured”.

SEC. 1210. EFFECT OF DISCHARGE.
Section 525 of this title, United States Code, is amended by striking “section 523” and all that follows through the end of the subsection and inserting: “
(1) in accordance with applicable non-
bankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial cor-
poration or trust; and 
(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e) or (f) of section 362.”

SEC. 1211. PROPERTY OF THE ESTATE.
Section 101(19A) of title 11, United States Code, is amended by inserting “§552(d), 1322(d), 1325(b), and” after “§522(d), 1322(d), 1325(b), and”.

SEC. 1212. TRANSFERS MADE BY NONPROFIT CHARITABLE ORGANIZATIONS.
(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: “
(1) in accordance with applicable non-
bankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial cor-
poration 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 1128(a) of title 11, United States Code, is amended by sections 213 and 221, by amending by adding at the end the following: 
“(15) All transfers of property of the plan shall be made in accordance with any applic-
able provisions of nonbankruptcy law that govern the transfer of property by a corpora-
tion or trust that is not a moneyed, business, or commercial corporation or trust.”

(c) TRANSFERS OF ESTATE RIGHTS.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding by adding at the end the following: 
“(16) Nothing in this section, or any other provision of this title, property that is held by a debtor or 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 be construed to require the court to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.
Section 109(b) of title 11, United States Code, is amended by inserting “after” the second row of the following: “property” the first place it appears.

SEC. 1215. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.
Section 109(h)(4) of title 11, United States Code, as so redesignated by section 221, is amended by adding by inserting “attorney’s” and inserting “attorneys”.

SEC. 1260. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.
Section 328(a) of title 11, United States Code, is amended by adding by inserting “of the estat-e” after “property” the first place it appears.

SEC. 1288. ALLOWANCE OF ADMINISTRATIVE EX-
PENSES.
Section 503(b)(4) of title 11, United States Code, is amended by inserting “paragraphs (A), (B), (C), (D), or (E) of’ before “paragraph (3)”.

SEC. 1290. 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 301(e) of Public Law 103–394 (108 Stat. 4133), after subsection (a)(14A); 
(2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, ves-
sel, or aircraft”; and 
(3) in subsection (e), by striking “a in-
sured” and inserting “an insured”.

SEC. 12110. EFFECT OF DISCHARGE.
Section 524 of this title, United States Code, is amended by striking “section 523” and all that follows through the end of the subsection and inserting: “The rights of a party in interest who first ac-
tually or that title on or after that date of enactment, or filed under title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first ac-
quired the rights with respect to the property 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 at-
torney 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 re-
mand or refer any proceeding, issue, or con-
test to any other court or to give any person the approval of any other court for the transfer of property.

SEC. 1220. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.
Section 547(c)(3)(A) of title 11, United States Code, is amended by striking “20” and inserting “30”.

S2579
March 11, 2005
CONGRESSIONAL RECORD — SATEN
SEC. 1223. BANKRUPTCY JUDGESHIPS.
(a) Short Title.—This section may be cited as the “Bankruptcy Judgeship Act of 2009.”

(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 Pennsylvania.
(B) Three additional bankruptcy judges for the central district of California.
(C) One additional bankruptcy judge for the district of Delaware.
(D) Two additional bankruptcy judges for the southern district of Florida.
(E) One additional bankruptcy judge for the district of Puerto Rico.
(F) Three additional bankruptcy judges for the district of Maryland.
(G) One additional bankruptcy judge for the southern district of Georgia.
(H) One additional bankruptcy judge for the northern district of New York.
(I) One additional bankruptcy judge for the southern district of New York.
(J) One additional bankruptcy judge for the eastern district of California.
(K) One additional bankruptcy judge for the southern district of Florida.
(L) One additional bankruptcy judge for the district of Delaware.
(M) One additional bankruptcy judge for the eastern district of Tennessee.
(N) One additional bankruptcy judge for the eastern district of Virginia.
(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 Pennsylvania.
(R) One additional bankruptcy judge for the eastern district of Virginia.
(S) One additional bankruptcy judge for the district of Nevada.
(T) One additional bankruptcy judge for the district of New Hampshire.

(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 a bankruptcy judge in each of the judicial districts set forth in paragraph (1)—
(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th 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.
(B) 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) 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 2nd 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.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.
(a) Title 28 Amended.—Section 362(b)(18) of title 11, United States Code, is amended to read as follows:—
“(18) Subsection (a) of the creation or preservation of a trust or estoppel for a particular purpose, or for a special assessment on real property whether or not ad valorem, imposed by a governmental unit or made in respect of a tax, lien, or assessment due after the date of the filing of the petition;”

(b) Judicial Education.—The Director of Educational Programs at the Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop and conduct, or contract for such training as may be useful to courts in implementing this Act and the amendments made by this Act, including education relating to the means test under section 707(b), and reasonable fees under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLASSIFICATION.
(a) Rights and Powers of the Trustee.—Section 546(c) of title 11, United States Code, is amended to read as follows:—
“(C) 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 section 507(a)(1) and 507(a)(2) are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of business, under an enforceable claim for such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of the case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods.

“(D) A trustee in possession—
(1) not later than 45 days after the date of receipt of such goods by the debtor; or
(2) not later than the date of commencement of the case, if the 45-day period expires after the commencement of the case; and

“(E) A person in possession of goods subject to the right of a seller of goods who has sold goods to the debtor in the ordinary course of business of such seller in the ordinary course of such debtor’s business.”

(b) Administrative Expenses.—Section 503(b)(1) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:
“(C) 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 by a seller of goods to the debtor in the ordinary course of the seller’s business.”

(c) Reclamation.—Section 503(b)(9) of title 11, United States Code, is amended by adding at the end the following:
“(B) The value of any goods received by the debtor within 20 days before the date of commencement of the case, if the 45-day period expires after the commencement of the case; and

“(C) A person in possession of goods subject to the right of a seller of goods who has sold goods to the debtor in the ordinary course of business of such seller in the ordinary course of such debtor’s business.”

(d) Administrative Expenses.—Section 503(b)(9) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:
“(C) 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 by a seller of goods to the debtor in the ordinary course of business of such seller 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 an individual case in which the debtor is a debtor in chapter 7 of title 11, United States Code, unless requested by the trustee to provide 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 by the trustee to provide 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 against the property under section 522(f), the time for destruction of such requested tax documents for the court.

SEC. 1229. ENCOURAGING CREDITORSHIPديث khách. — It is the sense of the Congress that—
(a) certain lenders may sometimes offer credit to consumers indiscriminately, without taking any steps to ensure that consumers are capable of repaying the resulting debt, and
(b) resulting consumer debt may increasingly be a major contributing factor to consumer insolven
(b) STUDY REQUIRED.—The Board of Gov-
ernors of the Federal Reserve System (here-
after in this section referred to as the "Board") is charged with a study of—
(1) consumer credit industry practices of soliciting and extending credit—
(A) the effects of such practices.
(B) without taking steps to ensure that consumers are capable of repaying the re-
sulting debt; and
(C) in a manner that encourages consumers to accumulate additional debt; and
(2) the effects of such practices on con-
sumer credit and debt.
(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this act, and unless the Board determines that a study of the effects of such practices on consumer credit and debt would be unnecessary, the Board shall submit a study to Congress. The Board is authorized to prescribe procedures to implement this subsection.

SEC. 1232. BANKRUPTCY FORMS.
Section 3075 of title 28, United States Code, is amended by adding at the end the fol-
lowing:
"(2) The bankruptcy court shall prescribe procedures to implement this subsection.".

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.
(a) APPEALS.—Section 127(b)(2) of title 28, United States Code, is amended by adding at the end the following:
"(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) In the case of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy appellate panel, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party, determines that a question of law or fact described in the first sentence, or all the appellants and appellees (if any) acting jointly, certify that the appeal involves a question of law requiring resolution by the circuit or of the Supreme Court of the United States, or involves a matter of public importance.
(B) In the case of appeals authorized under section 158(d)(2)(A), to the appropriate court of appeals.
(c) APPEAL TO THE CIRCUIT COURT OF APPEALS.—Except as otherwise provided in this subsection, an appeal authorized under subsection (a) or (b) of section 158(d)(2) of title 28, United States Code—
(A) may 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) may be appealed from to a district court of the United States in the district where the individual resides.
(d) APPEAL TO THE CONSUMER CREDIT DISCLOSURE BOARD.—If an appeal under subsection (b) is taken from a final judgment, order, or decree from which the appeal is taken, the provisions of this subsection shall apply to such appeal as to an appeal under title 11, United States Code, of a judgment, order, or decree taken from a final judgment, order, or decree from which the appeal is taken.

SEC. 1234. INVOLUNTARY CASES.
(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—
(1) by inserting "as to liability or amount" after "bona fide dispute"; and
(ii) striking "if such noncontingent, undisputed claims;" and
(iii) by adding at the end the following:
"(i) The parties may supplement the cer-

The district court shall be deemed to include a reference to a bankruptcy appellate panel; and
(2) by adding at the end the following:
"(C) A reference in such rule to a bankruptcy court and a bankruptcy appellate panel shall mean respectively bankruptcy court and district court, bankruptcy appellate panel.

SECTION 523(a) of title 11, United States Code, is amended by adding after paragraph (14A) the fol-
lowing:
"(14B) incurred to pay fines or penalties imposed under Federal consumer law;"

TITLE XIII.—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN OR REVOLVING CREDIT ACCOUNT
(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1607(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, the creditor shall disclose the minimum monthly payment if the payment is at least the amount required for paying interest and an amount at least equal to the greater of—
(1) the amount by which the unpaid balance on the last billing statement, located on the front of the billing statement, exceeds the balance due; and
(2) the amount by which the unpaid balance on the last billing statement, located on the front of the billing statement, exceeds any minimum payment required under paragraph (11) of subsection (f) of title 11, United States Code.

(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy appellate panel involved, acting on its own motion or on the request of a party, determines that a question of law requiring resolution by the circuit or of the Supreme Court of the United States, or involves a matter of public importance.
(B) In the case of appeals authorized under section 158(d)(2)(A), to the appropriate court of appeals.
(c) APPEAL TO THE CIRCUIT COURT OF APPEALS.—Except as otherwise provided in this subsection, an appeal authorized under subsection (a) or (b) of section 158(d)(2) of title 28, United States Code—
(A) may 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) may be appealed from to a district court of the United States in the district where the individual resides.
(d) APPEAL TO THE CONSUMER CREDIT DISCLOSURE BOARD.—If an appeal under subsection (b) is taken from a final judgment, order, or decree from which the appeal is taken, the provisions of this subsection shall apply to such appeal as to an appeal under title 11, United States Code, of a judgment, order, or decree taken from a final judgment, order, or decree from which the appeal is taken.

SEC. 1234. INVOLUNTARY CASES.
(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—
(1) by inserting "as to liability or amount" after "bona fide dispute"; and
(ii) striking "if such noncontingent, undisputed claims;" and
(iii) by adding at the end the following:
"(i) The parties may supplement the cer-

The district court shall be deemed to include a reference to a bankruptcy appellate panel; and
(2) by adding at the end the following:
"(C) A reference in such rule to a bankruptcy court and a bankruptcy appellate panel shall mean respectively bankruptcy court and district court, bankruptcy appellate panel.

SECTION 523(a) of title 11, United States Code, is amended by adding after paragraph (14A) the fol-
lowing:
"(14B) incurred to pay fines or penalties imposed under Federal consumer law;"
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 minimum monthly payment on a balance of $3,000 at an interest rate of 17% would take 88 months to repay the entire balance. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number:

"(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 5% of the balance at 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 monthly payment to the credit card every month may increase the amount of interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $500 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 toll-free telephone number established and maintained by the Federal Trade Commission, as appropriate. The toll-free telephone number established and maintained by the Federal Trade Commission, as appropriate, may be used in responding to the request of an obligor through the toll-free telephone number established under clause (A) or (B), as applicable, to disclose the information required to be disclosed under subparagraph (A) or (B) from an obligor through the toll-free telephone number established and maintained by the Federal Trade Commission, as appropriate. The toll-free telephone number established and maintained by the Board shall disclose in response to such request (A), (B), or (C), in complying with any such subparagraph as applicable;"
(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.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end of this subsection—

(A) a subsection (a), by adding at the end the following:

'(i) in the case of 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 advertise-ment is disseminated in paper form to the consumer, an application or solicitation to open a credit card account is mailed.

'(ii) 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 consumer, an application or solicitation to open a credit card account is mailed.

'(B) 12 months after the date of publication of such final regulations by the Board.

(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. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end of this subsection—

'(1) the terms ‘‘tempor-ary 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

'(2) will vary in accordance with an index, the rate that will apply after the temporary introductory period will end and the annual percentage rate that will apply after that, based on an annual per-

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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. DISCLOSURES RELATED TO INTERNET 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 of this subsection—

'(B) 12 months after the date of publication of such final regulations by the Board.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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 FINANCIAL OBLIGATIONS.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCIAL OBLIGATIONS.—Section 127(h) of the Truth in Lending Act (15 U.S.C. 1637(h)) is amended by adding at the end of this subsection—

'(C) DISCLOSURES REQUIRED.—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.

'(ii) the term ‘‘interactive computer serv-

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the require-

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

'(1) CREDIT APPLICATIONS.—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 that shall

'(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall not take effect until the later of—

(A) 12 months after the date of publication of such final regulations by the Board.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the require-

(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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.

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(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCIAL OBLIGATIONS.—Section 127(h) of the Truth in Lending Act (15 U.S.C. 1637(h)) is amended by adding at the end of this subsection—

'(C) DISCLOSURES REQUIRED.—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.

'(ii) the term ‘‘interactive computer serv-

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the require-

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

'(1) CREDIT APPLICATIONS.—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 that shall

'(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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 FINANCIAL OBLIGATIONS.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCIAL OBLIGATIONS.—Section 127(h) of the Truth in Lending Act (15 U.S.C. 1637(h)) is amended by adding at the end of this subsection—

'(C) DISCLOSURES REQUIRED.—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.

'(ii) the term ‘‘interactive computer serv-

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the require-

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

'(1) CREDIT APPLICATIONS.—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 that shall

'(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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 FINANCIAL OBLIGATIONS.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCIAL OBLIGATIONS.—Section 127(h) of the Truth in Lending Act (15 U.S.C. 1637(h)) is amended by adding at the end of this subsection—

'(C) DISCLOSURES REQUIRED.—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.

'(ii) the term ‘‘interactive computer serv-

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promul-
gate regulations implementing the require-

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

'(1) CREDIT APPLICATIONS.—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 that shall

'(2) EFFECTIVE DATE.—The amendment made by subsection (a) of this section 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.
TITLe XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.
Section 507(a)(1) of title 11, United States Code, as amended by section 221, 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 ‘‘$1,009,900’’.

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) by inserting ‘‘(including any transfer to or for the benefit of an insider under an employment contract)’’ after ‘‘transfer’’ the last place it appears, and
(3) in subsection (a)(1)(B)(iii)—
(A) in subclause (I) by striking ‘‘or’’ and inserting ‘‘and’’;
(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:
‘‘(v) 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 made—
(A) in violation of this title in a manner which results in disclosures which are reasonably referable to the debtor or any person of which the debtor is or was known by the transferor to have an interest, unless the court finds that the balance of the equities clearly favors such modification.’’.

SEC. 1403. EMERGING ENTITY BANKRUPTCY ABUSE.
Section 548 of title 11, United States Code, is amended by adding at the end the following:
(1) in paragraph (4) by striking ‘‘90’’ and inserting ‘‘180’’; and
(2) in paragraph (5) by striking ‘‘$4,000’’ and inserting ‘‘$1,009,900’’.

SEC. 1404. DETERMS NONDISCHARGEABLE IF IN- CURED IN VIOLATION OF SECURITIES LAWS.
(a) PREPTEITION AND POSTPETITION EF- FECT.—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 ‘‘result’’.
(b) EFFECTIVE DATE.—Section 523(a)(19) of title 11, United States Code, is amended by adding at the end the following:
(1) in paragraph (1) by striking ‘‘90’’ and inserting ‘‘180’’; and
(2) in paragraph (2) by striking ‘‘$4,000’’ and inserting ‘‘$1,009,900’’.

TITLe XV—GENERAL EFFECTIVE DATE AND TECHNICAL CORRECTIONS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.
(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, the amendments made by this title 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 of the United States Code on or after the date of the enactment of this Act.
(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by section 212, 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.

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 301 by striking—
(A) in subsection (a) 
(i) in paragraph (5)(B)(I) by striking—
‘‘paraph (3)’’ and inserting—
‘‘paragraph (4)’’; and
(ii) in paragraph (8)(D) by striking—
‘‘paragraph (3)’’ and inserting—
‘‘paragraph (4)’’;
(b) in subsection (a)(1) by inserting—
‘‘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 522 by striking—
(A) in subsection (a) 
(i) by striking—
‘‘707(a)(2)’’ and inserting—
‘‘707(a)(1)’’;
(3) in section 523 by striking—
(A) in subsection (a) by striking—
‘‘707(a)(1)’’ and inserting—
‘‘707(a)(2)’’; and
(4) in section 707 by striking—
(A) in subsection (a) by striking—
‘‘707(a)(1)’’ and inserting—
‘‘707(a)(2)’’; and
(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. 78ff(e)) is amended by striking “507(a)(1)” and inserting “507(a)(2)”.

HONORING THE LIFE OF ENRIQUE “KIKI” CAMARENA

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 73, and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 73) honoring the life of Enrique “Kiki” Camarena.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD as if read, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 73) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 73
Whereas Enrique “Kiki” Camarena, a Special Agent of the Drug Enforcement Administration for 11 years, was abducted and brutally murdered by drug barons in 1985;
Whereas Enrique Camarena dedicated his life to serving the law enforcement community and the Nation as a whole and was the devoted husband of Genevra Alvarado and loving father of Enrique, Daniel, and Eric;
Whereas Enrique Camarena received 2 Sustained Superior Performance Awards and a Special Achievement Award while serving the Drug Enforcement Administration;
Whereas Camarena’s dedication to reducing the scourge of drugs eventually cost him his life;
Whereas “Camarena Clubs” to combat drug abuse have been created in high schools across the Nation to honor his memory;
Whereas Enrique Camarena is honored each year during National Red Ribbon Week; and
Whereas the 20th Anniversary of Enrique Camarena’s death will be specially honored on March 9, 2005, at the Drug Enforcement Administration headquarters: Now, therefore, be it
Resolved, That the Senate—
(1) mourns the loss of Enrique “Kiki” Camarena;
(2) recognizes the contributions of Enrique Camarena to our National efforts to combat drug abuse;
(3) admires the courage and dedication of Enrique Camarena in his work as a Special Agent of the Drug Enforcement Administration;
(4) expresses gratitude for the legacy left by Enrique Camarena; and
(5) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Enrique Camarena.

ORDERS FOR MONDAY, MARCH 14, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 10 a.m. on Monday, March 14. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin consideration of the budget resolution, as under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, the Senate will reconvene on Monday at 10 a.m. and immediately begin consideration of the budget resolution. As I mentioned earlier this morning, and I mention again now, it is going to be a long and challenging week. Senators should expect to be here in the evenings. There will, of course, be multiple votes during the course of the week. We typically do what is referred to around here with a wry smile as a vote-a-rama toward the end of the budget week.

I caution all Senators that next Friday will be an unusual Friday, a Friday in which we will, in all likelihood, be here and working throughout the day and up into the evening. If previous years’ Fridays of budget week are any indication, that is what we can expect next Friday. I want everybody to be on notice that notions of pulling out early on the Friday before the recess probably will not hold, unless we have incredible cooperation early in the week to move much more quickly. We are looking at an unusual and long Friday with lots of votes next Friday. We are going to try to work our way through the budget resolution as rapidly as possible and get everybody out of here as soon as possible, but anticipate that next Friday will be difficult.

ADJOURNMENT UNTIL 10 A.M., MONDAY, MARCH 14, 2005

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:06 p.m., adjourned until Monday, March 14, 2005, at 10 a.m.
Friday, March 11, 2005

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2505–S2585

Measures Introduced: Eight bills and two resolutions were introduced, as follows: S. 603–610, S. Con. Res. 18–19.

Measures Reported:

S. 263, to provide for the protection of paleontological resources on Federal lands, with amendments. (S. Rept. No. 109–36)

S. Con. Res. 18, setting for the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

Measures Passed:

Honoring Enrique Camarena: Committee on the Judiciary was discharged from further consideration of S. Res. 73, honoring the life of Enrique “Kiki” Camarena, and the resolution was then agreed to.

Nomination Referral—Agreement: On Thursday, March 10, 2005, a unanimous-consent agreement was reached providing that when the nomination for the Assistant Secretary for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session, provided further that if the Committee on Environment and Public Works does not report the nomination within those 20 days, the Committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Authority for Committees to Meet:

Adjournment: Senate convened at 9:30 a.m., and adjourned at 12:06 p.m., until 10 a.m., on Monday, March 14, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S2585.)

Committee Meetings

(Nominees not listed did not meet)

Nominations

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of R. Nicholas Burns, of Massachusetts, to be an Under Secretary of State (Political Affairs), C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (Near Eastern Affairs), and John B. Bellinger, of Virginia, to be Legal Adviser of the Department of State, who were introduced by Senator Warner, after the nominees testified and answered questions in their own behalf.
House of Representatives

Chamber Action
The House was not in session today. The House will meet at 12:30 p.m. on Monday, March 14 for Morning Hour debate.

Committee Meetings

SCIENCE, THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Science, The Departments of State, Justice, and Commerce, and Related Agencies held a hearing on the NSF; the National Science Board; and the Office of Science and Technology Policy. Testimony was heard from John H. Marburger, III, Director, Office of Science and Technology Policy; and the following officials of the NSF: Arden L. Bement, Jr., Director; and Ray M. Bowen, member, National Science Board.

The Subcommittee also held a hearing on the SEC. Testimony was heard from William H. Donaldson, Chairman, SEC.

D.C. DRINKING WATER SAFETY

Committee on Government Reform: Held a hearing entitled “Getting the Lead Out: The Ongoing Quest for Safe Drinking Water in the Nation’s Capital.” Testimony was heard from the following officials of the EPA: Benjamin H. Grumbles, Acting Assistant Administrator, Office of Water; and Donald S. Welsh, Regional Administrator, Region III; Thomas P. Jacobs, General Manager, Washington Aqueduct, U.S. Army Corps of Engineers, Department of the Army; Jerry Johnson, General Manager, Water and Sewer Authority, District of Columbia; and a public witness.

CONGRESSIONAL PROGRAM AHEAD

Week of March 14 through March 19, 2005

Senate Chamber

On Monday, at 10 a.m., Senate will begin consideration of S. Con. Res. 18, an original concurrent resolution setting for the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

During the balance of the week Senate will consider any other cleared legislative and executive business.

Committee on Agriculture, Nutrition, and Forestry: March 15, to hold hearings to examine school nutrition programs, 10 a.m., SH–216.

Committee on Appropriations: March 15, Subcommittee on Transportation, Treasury and General Government, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Transportation, 9:30 a.m., SD–138.

March 15, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Labor, 10:30 a.m., SD–124.


March 15, Subcommittee on Military Construction, to hold hearings to examine Department of Veterans Affairs budget overview, 2:30 p.m., SD–138.

March 16, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Health and Human Services, 9:30 a.m., SD–138.

March 16, Subcommittee on Military Construction, to hold hearings to examine proposed budget estimates for fiscal year 2006 for the Army and Air Force, 2 p.m., SD–138.

Committee on Armed Services: March 15, to resume hearings to examine military strategy and operational requirements from combatant commanders in review of the Defense Authorization Request for fiscal year 2006, 9:30 a.m., SD–106.

March 15, Full Committee, to hold hearings to examine the nomination of Anthony Joseph Principi, of California, to be a Member of the Defense Base Closure and Realignment Commission, 4:30 p.m., SR–222.

March 16, Subcommittee on Strategic Forces, to hold hearings to examine national security space policy and programs in review of the Defense Authorization request for fiscal year 2006, 3 p.m., SR–222.

March 17, Full Committee, to hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed hearing in SH–219, 9:30 a.m., SD–106.

March 17, Subcommittee on SeaPower, to hold hearings to examine posture of the U.S. Transportation Command in review of the Defense Authorization request for fiscal year 2006, 3 p.m., SR–232A.

Committee on Commerce, Science, and Transportation: March 17, Subcommittee on Oceans, Fisheries and Coast Guard, to hold hearings to examine the President’s proposed
budget request for fiscal year 2006 for the Coast Guard Operational Readiness/Mission Balance, 10 a.m., SR–253.

Committee on Energy and Natural Resources: March 15, Subcommittee on National Parks, to hold hearings to examine S. 175, to establish the Bleeding Kansas and Enduring Struggle for Freedom National Heritage Area, S. 322, to establish the Champlain Valley National Heritage Partnership in the States of Vermont and New York, S. 323, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and S. 429, to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, 2:30 p.m., SD–366.

March 16, Full Committee, business meeting to consider pending calendar business, 11:30 a.m., SD–366.


Committee on Finance: March 16, to hold hearings to examine expiring tax provisions, 10 a.m., SD–628.

Committee on Foreign Relations: March 15, to hold hearings to examine the nominations of John Thomas Schieffer, of Texas, to be Ambassador to Japan, Joseph R. DeTrani, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Six Party Talks, and Howard J. Krongard, of New Jersey, to be Inspector General, Department of State, 9:30 a.m., SD–419.

March 15, Full Committee, business meeting to consider pending calendar business, 2:15 p.m., S–116, Capitol.

March 16, Full Committee, to hold hearings to examine the lifting of the EU arms embargo on China, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: March 17, to hold hearings to examine the nomination of Lester M. Crawford, of Maryland, to be Commissioner of Food and Drugs, Department of Health and Human Services, 10 a.m., SD–430.

Committee on Homeland Security and Governmental Affairs: March 15, Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold oversight hearings to examine ensuring the success of the National Security Personnel System, focusing on the proposed regulations jointly published by the Department of Defense and Office of Personnel Management for the National Security Personnel System, 10 a.m., SD–342.

March 16, Full Committee, business meeting to consider S. 21, to provide for homeland security grant coordination and simplification, S. 335, to reauthorize the Congressional Award Act, S. 494, to amend chapter 25 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, S. 501, to provide a site for the National Women's History Museum in the District of Columbia, report of the permanent Sub-committee on investigation, titled, "The Role of the Professional Firms in the U.S. Tax Shelter Industry", and the nomination of Harold Damelin, of Virginia, to be Inspector General, Department of the Treasury, 11 a.m., SD–342.

Committee on the Judiciary: March 14, Subcommittee on Immigration, Border Security and Citizenship, with the Subcommittee on Terrorism, Technology and Homeland Security, to hold hearings to examine strengthening enforcement and border security, focusing on the 9/11 Commission staff report on terrorist travel, 2:30 p.m., SD–226.

March 15, Subcommittee on Terrorism, Technology and Homeland Security, to hold hearings to examine the OPEN Government Act of 2005 relating to openness in government and freedom of information, 10 a.m., SD–226.

March 15, Full Committee, to hold hearings to examine the SBC/ATT and Verizon/MCI mergers relating to remaking the telecommunications industry, 2:30 p.m., SD–226.

March 16, Subcommittee on Constitution, Civil Rights and Property Rights, to hold hearings to examine obscenity prosecution and the constitution, 3 p.m., SD–226.

Committee on Veterans' Affairs: March 17, to hold hearings to examine the report entitled, "Back from the Battlefield: Are we providing the proper care for America's Wounded Warriors?", 10 a.m., SR–418.

Select Committee on Intelligence: March 15, closed business meeting to consider certain intelligence matters, 3:30 p.m., SH–219.

March 16, Full Committee, to hold a closed briefing on intelligence matters, 2:30 p.m., SH–219.

Special Committee on Aging: March 15, to hold hearings to examine exploring the economics of retirement, 10 a.m., SD–562.

House Committees

Committee on Agriculture: March 16, hearing to Review United States Agricultural Trade with Cuba, 10 a.m., 1300 Longworth.


March 15, Subcommittee on the Department of Homeland Security, on Customs and Border Protection, 10 a.m., 2360 Rayburn.

March 15, Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, on Health Resources and Services Administration, 10 a.m., 2358 Rayburn.

March 15, Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies, on Members of Congress, 10 a.m., H–309 Capitol.

March 16, Subcommittee on Agricultural, Rural Development, Food and Drug Administration, and Related Agencies, on Under Secretary for Marketing and Regulatory Programs, 9:30 a.m., 2362A Rayburn.
March 16, Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, on Student Financial Aid, 10:15 a.m., 2358 Rayburn.

March 16, Subcommittee on Energy and Water Development, and Related Agencies, on Department of Energy-Nuclear Waste Disposal and Environmental Management, 10 a.m., and on Department of Energy-Fossil Energy, 2 p.m., 2362A Rayburn.

March 16, Subcommittee on Foreign Operations, Export Financing and Related Programs, on Secretary of the Treasury, 10 a.m., 2359 Rayburn.

March 16, Subcommittee on Interior, Environment, and Related Agencies, on National Park Service, 10 a.m., 2358 Rayburn.

March 16, Subcommittee on Military Quality of Life, and Veterans Affairs, and Related Agencies, on BRACE/Global Posture Review, 1:30 p.m., H–143 Capitol.

March 16, Subcommittee on Science, the Departments of State, Justice, and Commerce, and Related Agencies, on DEA, 10 a.m., H–309 Capitol.

March 17, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Under Secretary for Rural Development, 9:30 a.m., 2362A Rayburn.

March 17, Subcommittee on Defense, on Air Force Posture, 10 a.m., and executive, on Air Force Acquisition, 1:30 p.m., H–140 Capitol.

March 17, Subcommittee on the Department of Homeland Security, on Citizenship and Immigration Services, 2 p.m., 2359 Rayburn.

March 17, Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, on Secretary of Labor, 10 a.m., 2358 Rayburn.

March 17, Subcommittee on Interior, Environment, and Related Agencies, on Bureau of Indian Affairs, 2 p.m., B–308 Rayburn.

March 17, Subcommittee on Science, The Departments of State, Justice, Commerce, and Related Agencies, on SBA, 10 a.m., and on Federal Prison System, 2 p.m., H–309 Capitol.

March 17, Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, on the Secretary of Labor, 10 a.m., 2358 Rayburn.

March 18, Subcommittee on the Departments of Labor, Health and Human Services, Education, and Related Agencies, on Quality Teachers, Principals and High Schools, 10 a.m., 2358 Rayburn.

March 18, Subcommittee on the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia and Independent Agencies, on Secretary of Transportation, 10 a.m., 2358 Rayburn.


March 15, Subcommittee on Strategic Forces, hearing on the Fiscal Year 2006 National Defense Authorization budget request for Missile Defense Programs, 9 a.m., 2118 Rayburn.

March 15, Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on the Fiscal Year 2006 National Defense Authorization budget request—Department of Defense responsibilities in homeland defense and homeland security missions, 3 p.m., 2212 Rayburn.

March 16, full Committee, to continue hearings on the Fiscal Year 2006 National Defense Authorization budget request, 10 a.m., 2118 Rayburn.

March 16, Subcommittee on Military Personnel, hearing on Recruiting, Retention and Military Personnel Policy, and Benefits and Compensation Overview, 2 p.m., 2212 Rayburn.


March 17, Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on the Fiscal Year 2006 National Defense Authorization budget request—United States Special Operations Command policy and programs, 3 p.m., 2212 Rayburn.


March 16, full Committee, to mark up H.R. 525, Small Business Health Fairness Act of 2005, 10:30 a.m., 2175 Rayburn.


March 16, Subcommittee on Telecommunications and the Internet, hearing entitled “How Internet Protocol-Enabled Services are Changing the Face of Communications: A Look at the Voice Marketplace,” 10 a.m., 2123 Rayburn.


March 17, Subcommittee on Health, hearing entitled “Setting the Path for Reauthorization: Improving Portfolio Management at the NIH,” 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, March 15, hearing on the annual State of the International Financial System, 2 p.m., 2128 Rayburn.


March 16, full Committee, to consider the following measures: H.R. 458, Military Personnel Financial Services Protection Act; H.R. 749, Expanded Access to Financial Services Act of 2005; H.R. 280, Brownfields Redevelopment Enhancement Act; H.R. 804, To exclude from consideration as income certain payments under the national flood insurance program; H.R. 1057, True American Heroes Act; and H.R. 902, Presidential $1 Coin Act, 10 a.m., 2128 Rayburn.


March 17, Subcommittee on Financial Institutions and Consumer Credit, hearing on H.R. 1185, Deposit Insurance Reform Act of 2005, 9:30 a.m., 2128 Rayburn.


March 16, full Committee, to consider pending business, followed by a hearing entitled "Service Oriented Streamlining: Rethinking the Way GSA Does Business," 10 a.m., 2154 Rayburn.

March 16, Subcommittee on Energy and Resources, oversight hearing entitled "Energy Demands in the 21st Century: Are Congress and the Executive Branch Meeting the Challenge?" 2 p.m., 2203 Rayburn.

March 16, Subcommittee on Government Management, Finance, and Accountability, hearing entitled "Strengthening Travel Reimbursement Procedures for Army National Guard Soldiers," 2 p.m., 2247 Rayburn.

March 17, full Committee, hearing entitled "Restoring Faith in America's Pastime: Evaluating Major League Baseball's Efforts to Eradicate Steroid Use," 10 a.m., 2154 Rayburn.

Committee on Homeland Security, March 15, Subcommittee on Prevention of Nuclear and Biological Attack, entitled "Nuclear Terrorism: Protecting the Homeland," 1 p.m., 210 Cannon.

Committee on House Administration, March 16, to continue to consider funding requests of the Committees of the House of Representatives, 2 p.m., 1310 Longworth.

Committee on International Relations, March 15, oversight hearing on United Nations Reform: Challenges and Prospects, 2:30 p.m., 2172 Rayburn.

March 16, full Committee, hearing on Libya: Progress on the Path Toward Cautious Reengagement, 10:30 a.m., 2172 Rayburn.

March 16, Subcommittee on Africa, Global Human Rights and International Operations, oversight hearing on Northern Ireland Human Rights: Update on the Cory Collusion Inquiry Reports, 2 p.m., 2172 Rayburn.

March 17, full Committee, oversight hearing on U.S. Counternarcotics Policy in Afghanistan: Time for Leadership, 11 a.m., 2127 Rayburn.


March 17, Subcommittee on International Terrorism and Nonproliferation, oversight hearing on the United Nations and the Fight Against Terrorism, 1:30 p.m., 2255 Rayburn.

March 17, Subcommittee on Oversight and Investigations, oversight hearing on The United Nations Oil-for-Food Program: The Cotecna and Saybolt Inspection Firms, 1:30 p.m., 2172 Rayburn.

Committee on the Judiciary, March 15, Subcommittee on Commercial and Administrative Law, hearing on H.R. 800, Protection of Lawful Commerce in Arms Act, 10 a.m., 2141 Rayburn.


March 16, Subcommittee on the Constitution, hearing on H.R. 1131, to amend title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose life is in jeopardy, 2 p.m., 2141 Rayburn.

March 17, Subcommittee on the Constitution, oversight hearing on the U.S. Commission on Civil Rights, 9 a.m., 2141 Rayburn.

March 17, Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on Holmes Group, the Federal Circuit, and the State of Patent Appeals, 3:30 p.m., 2141 Rayburn.

March 17, Subcommittee on Crime, Terrorism, and Homeland Security, oversight hearing on Responding to Organized Crimes Against Manufacturers and Retailers; followed by markup of H.R. 32, Stop Counterfeiting in Manufactured Goods Act, 1 p.m., 2141 Rayburn.

Committee on Resources, March 15, Subcommittee on Water and Power, oversight hearing on the Power Marketing Administrations' Role in Bringing Our Nationwide Electricity Transmission System into the 21st Century, 10 a.m., 1324 Longworth.


Act of 2005, and H.R. 975, Trail Responsibility and Accountability for the Improvement of Lands Act, 2:30 p.m., 1324 Longworth.

March 17, full Committee, oversight hearing on a measure to amend the Indian Gaming Regulatory Act to restrict off-reservation gaming, 2 p.m., 1324 Longworth.

March 17, Subcommittee on National Parks, oversight hearing on the Fiscal Year 2006 National Park Service Budget, 10 a.m., 1324 Longworth.

Committee on Rules, March 14, to consider H.R. 1268, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, 5 p.m., H–313 Capitol.

March 15, to consider the Concurrent Resolution on the Budget, FY 2006, 3:30 p.m., H–313 Capitol.

Committee on Science, March 15, Subcommittee on Environment, Technology, and Standards, to mark up the following bills: H.R. 50, National Oceanic and Atmospheric Administration Act; and H.R. 798, Methamphetamine Remediation Research Act of 2005, 1 p.m., 2318 Rayburn.

March 16, Subcommittee on Space and Aeronautics, hearing on the Future of Aeronautics at NASA, 10 a.m., 2318 Rayburn.


March 17, Subcommittee on Rural Enterprise, Agriculture, and Technology, hearing entitled “The High Price of Natural Gas and its Impact on Small Businesses: Issues and Short Term Solutions, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, March 15, Subcommittee on Aviation, oversight hearing on Lasers: A Hazard to Aviation Safety and Security? 10 a.m., 2167 Rayburn.

March 16, Subcommittee on Water Resources and Environment, oversight hearing on Member Project Requests for the Water Resources Development Act of 2005, 10 a.m., 2167 Rayburn.

March 17, Subcommittee on Coast Guard and Maritime Transportation, oversight hearing on Implementation of the Maritime Transportation Security Act, 10 a.m., 2167 Rayburn.

March 17, Subcommittee on Economic Development, Public Buildings and Emergency Management, oversight hearing on The Administration’s “Strengthening America’s Communities” Initiative and its impact on economic development, 2 p.m., 2167 Rayburn.

Committee on Ways and Means, March 15, Subcommittee on Health, hearing on Measuring Physician Quality and Efficiency of Care in Medicare, 10 a.m., 1100 Longworth.


March 16, full Committee, hearing on the President’s Fiscal Year 2006 Budget for the Department of Labor, 10:30 a.m., 1100 Longworth.

March 17, Subcommittee on Health, hearing on Managing the Use of Imaging Services, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, March 15, executive, hearing on the Budget, 1 p.m., H–405 Capitol.

March 16, executive, hearing on the Budget, 1:30 p.m., H–405 Capitol.

March 17, executive, on Global Updates, 9 a.m., and executive, hearing on the Budget, 1:30 p.m., H–405 Capitol.

Joint Meetings

Joint Meetings: March 14, Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security and Citizenship, to hold hearings to examine strengthening enforcement and border security, focusing on the 9/11 Commission staff report on terrorist travel, 2:30 p.m., SD–226.

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Next Meeting of the SENATE
10 a.m., Monday, March 14

Senate Chamber

Program for Monday: Senate will begin consideration of S. Con. Res. 18, an original concurrent resolution setting for the congressional budget for the United States Government for fiscal year 2006 and including the appropriate budgetary levels for fiscal years 2005 and 2007 through 2010.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Monday, March 14

House Chamber

Program for Monday: To be announced.