

to the public health crisis of pain, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 942. A bill to amend the Internal Revenue Code of 1986 to require the Secretary of the Treasury to develop an Internet site where a taxpayer may generate a receipt for an income tax payment which itemizes the portion of the payment which is allocable to various Government spending categories; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 943. A bill to authorize the Administrator of General Services to restore, preserve, and operate the LBJ Presidential Office Suite in Austin, Texas; to the Committee on Governmental Affairs.

By Mr. INHOFE:

S. 944. A bill to amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma; to the Committee on Indian Affairs.

By Mr. DURBIN (for himself, Mr. LEAHY, Mr. KENNEDY, Mr. FEINGOLD, and Mr. SARBANES):

S. 945. A bill to amend title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 946. A bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself and Mr. MCCAIN):

S. 947. A bill to amend federal law regarding the tolling of the Interstate Highway System; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SANTORUM:

S. Res. 91. A resolution expressing the sense of the Senate that Jim Thorpe should be recognized as the "Athlete of the Century"; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. LAUTENBERG, Mr. REID, Mr. JEFFORDS, Mr. SCHUMER, Mr. ASHCROFT, Mr. MACK, Mr. COVERDELL, and Mr. HELMS):

S. Res. 92. A resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially; to the Committee on Health, Education, Labor, and Pensions.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. CHAFEE, Mr. KENNEDY, Mr. SCHUMER, Mr. LAUTENBERG, Mrs. BOXER, and Mr. REED):

S. 936. A bill to prevent children from having access to firearms; to the Committee on the Judiciary.

#### CHILDREN'S FIREARM ACCESS PREVENTION ACT

Mr. DURBIN. Mr. President, I rise today with my colleagues Senator

CHAFEE, Senator KENNEDY, Senator SCHUMER, Senator LAUTENBERG, Senator BOXER, and Senator REED to introduce the Child Firearm Access Prevention Act of 1999.

Following the tragedy in Littleton, Colorado, it is natural to ask "why", but we also need to ask "how?"

How do two teenagers enter their high school armed with a Tec 9, semi-automatic assault rifle, two sawed off 12 gauge shotguns, a 9 millimeter semi-automatic pistol, 30 explosive devices and kill 13 innocent people?

There are those who say you can't pass laws to stop this behavior because those inclined to do it will simply ignore the law. I guess the message of this logic is if you can't solve the entire problem, you shouldn't even try.

I think that logic is wrong. We have to act and we have to act now. Everyday in America, 13 children die as a result of gun violence.

In the last two years our schools have been shattered by gun violence.

October 1, 1997, Pearl, Mississippi: A sixteen year old boy killed his mother then went to his high school and shot nine students, two fatally.

December 1, 1997, West Paducah, Kentucky: Three students were killed and five were wounded in a hallway at Heath High School by a 14 year old classmate.

March 24, 1998, Jonesboro, Arkansas: Four girls and a teacher were shot to death and 10 people were wounded during a false fire alarm at a middle school when two boys 11 and 13 opened fire from the woods.

April 24, 1998, Edinboro, Pennsylvania: A science teacher was shot to death in front of students at an eighth grade dance by a 14 year old student.

May 19, 1998, Fayetteville, Tennessee: Three days before his graduation, an 18 year old honor student allegedly opened fire in a parking lot at a high school killing a classmate who was dating his ex-girlfriend.

May 21, 1998, Springfield, Oregon: Two teen-agers were killed and more than 20 people were hurt when a 15 year old boy allegedly opened fire at a high school. The boy's parents were killed at their home.

There is something we can do to protect our children. Seventeen states have already recognized the problem and passed a child firearm access prevention law, which is known as a CAP law. These laws say to those who purchase and own guns, it is not enough for you to follow the law in purchasing them and to use the guns safely; you have another responsibility. If you are going to own a firearm in your home, you have to keep it safely and securely so that children do not have access to it.

These laws are effective. Florida was the first State to pass a CAP law in 1989. The following year, unintentional shooting deaths of children dropped

50%. Moreover, a study published in the Journal of the American Medical Association (JAMA) in October of 1997 found a 23% decrease in unintentional firearm related deaths among children younger than 15 in those States that had implemented CAP laws. According to the JAMA article, if all 50 states had CAP laws during the period of 1990-94, 216 children might have lived.

Should we consider these state laws as a national model? I think the obvious answer is yes. Unfortunately, the Littleton tragedy is no longer unique.

Mr. President, what I propose today is Federal legislation that will apply to every State, not just 17, but every State. And this is what it says. If you want to own a handgun, a rifle or shotgun, and it is legal to do so, you can; but if you own it, you have a responsibility to make certain that it is kept securely and safely.

What does the bill do? The bill imposes criminal penalties for gun owners who know or should know that a juvenile could gain access to the gun, and a juvenile does gain access & thereby causes death or injury or exhibits the gun in a public place. The gun owner is subject to a prison sentence of up to 1 year and/or fined \$10,000 (a misdemeanor penalty). The bill also provides a felony provision for a reckless violation.

The bill has 5 common sense exceptions. (1) The adult uses a trigger lock, secure storage box, or other secure storage technique; (2) The juvenile used the gun in a lawful act of self-defense; (3) The juvenile takes the gun off the person of a law enforcement official; (4) The owner has no reasonable expectation that juveniles will be on the premises; and (5) The juvenile got the gun as a result of a burglary.

States which have passed CAP laws include: Florida, Connecticut, Iowa, California, Nevada, New Jersey, Virginia, Wisconsin, Hawaii, Maryland, Minnesota, North Carolina, Delaware, Rhode Island, Texas, Massachusetts and Illinois. An examination of this list does not reveal the most liberal states in America. The first State to pass this legislation in 1989 was Florida and in 1995, Texas, certainly no bleeding heart state by any political definition, passed a CAP law.

I ask my Senate colleagues to join me in this bipartisan effort to protect children from the dangers of gun violence. Children and easy access to guns are a recipe for tragedy.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 936

*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 "Children's Firearm Access Prevention Act".

**SEC. 2. CHILDREN AND FIREARMS SAFETY.**

(a) DEFINITION.—Section 921(a)(34)(A) of title 18, United States Code, is amended by inserting “or removing” after “deactivating”.

(b) PROHIBITION.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

“(z) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS.—

“(1) DEFINITION OF JUVENILE.—In this subsection, the term ‘juvenile’ means an individual who has not attained the age of 18 years.

“(2) PROHIBITION.—Except as provided in paragraph (3), it shall be unlawful for any person to keep a loaded firearm, or an unloaded firearm and ammunition for the firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premise that is under the custody or control of that person if that person knows, or reasonably should know, that a juvenile is capable of gaining access to the firearm without the permission of the parent or legal guardian of the juvenile.

“(3) EXCEPTIONS.—Paragraph (2) does not apply if—

“(A) the person uses a secure gun storage or safety device for the firearm;

“(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

“(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons;

“(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept; or

“(E) the juvenile obtains the firearm as a result of an unlawful entry by any person.”.

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7) Whoever violates section 922(z), if a juvenile (as defined in section 922(z)) obtains access to the firearm and thereby causes death or bodily injury to the juvenile or to any other person, or exhibits the firearm either in a public place, or in violation of section 922(q)—

“(A) shall be fined not more than \$10,000, imprisoned not more than 1 year, or both; or

“(B) if such violation is reckless, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.”.

(d) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

“(d) CONTENTS OF FORM.—The Secretary shall ensure that a copy of section 922(z) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.”.

(e) NO EFFECT ON STATE LAW.—Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent juveniles from injuring themselves or others with firearms.

By Mrs. HUTCHISON (for herself,  
Mr. MCCAIN, Mr. HOLLINGS, and  
Mr. INOUE);

S. 937. A bill to authorize appropriations for fiscal years 2000 and 2001 for

certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME ADMINISTRATION AUTHORIZATION ACT  
FOR FISCAL YEARS 2000 AND 2001

• Mrs. HUTCHISON. Mr. President, today I rise to introduce legislation on behalf of myself, Senator MCCAIN, chairman of the Senate Commerce Committee, Senator HOLLINGS, the ranking member of the Commerce Committee and Senator INOUE, Surface Transportation and Merchant Marine Subcommittee ranking member. This legislation authorizes appropriations for fiscal year 2000 for the Maritime Administration.

The introduction of this bill demonstrates our firm commitment to our nation's maritime industry and our willingness to work with the Maritime Administration to provide effective leadership on a wide range of maritime issues. The bill was developed along with Administration officials and provides a base to build upon in coming weeks.

There are several aspects of this measure that will require interested members of the Senate to work together to come to a consensus. Therefore, this bill can be viewed as a starting point for reauthorizing the agency and making changes to U.S. maritime policy. I look forward to working with members of the Committee and the administration to find common ground for a final legislation.

The bill authorizes appropriations for the Maritime Administration [MarAd] for fiscal year 2000 and covers two appropriated accounts: (1) operations and training and (2) the shipbuilding loan guarantee program authorized by Title XI of the Merchant Marine Act, 1936.

MarAd oversees the operations of U.S. Government-supported maritime promotion programs, such as the Maritime Security Program, the state maritime academies and the U.S. Merchant Marine Academy. I am a strong supporter of the state maritime academies, in particular, and want to ensure that they are adequately funded.

Title XI shipbuilding loan guarantee program is important to ensuring critical shipbuilding capacity in the United States. This legislation provides \$6 million in loan guarantee funds for Title XI in FY2000. However, this program has received substantially more in previous years, and I look forward to working with the Administration to determine the appropriate level of funding.

This bill codifies the administrative process associated with Title XI. The measure provides the Secretary the authority to hold all bond proceeds generated under Title XI during the construction period in escrow. Currently, the Secretary must administratively establish a separate construction fund

with a private bond agent for a portion of the bond proceeds not captured in escrow. This will eliminate the cost associated with the establishment of the separate construction fund and better protect the government's interest.

Further, the measure provides the Secretary authority under Title XI to collect and hold cash collateral in the U.S. Treasury, under certain circumstances associated with a guaranteed transaction. This will relieve the obligors and the agency from spending the time and money associated with negotiating depository agreements and legal opinions in Title XI transactions.

Additionally, the bill amends Title IX to provide a waiver of the three year period bulk and breakbulk vessels newly registered under the U.S. flag must wait in order to carry government-impelled cargo. The waiver would be in effect for one year beginning on the date of enactment.

Finally, the bill would reauthorize the War Risk Insurance Program through June 30, 2005, change the requirement for an annual report to Congress by the Maritime Administration detailing its activities to a biennial report, and make clear the ownership status of the vessel named the *Jeremiah O'Brien*.

I look forward to working on this important legislation and hope my colleagues will join me and the other sponsors in expeditiously moving this authorization through the legislative process.●

• Mr. MCCAIN. Mr. President, I am pleased to join Senator HUTCHISON, Chairman of the Surface Transportation and Merchant Marine Subcommittee in the introducing the Maritime Administration Authorization Act for Fiscal Year 2000.

The bill was developed along with administration officials and provides a firm base to build on in coming weeks. While I do not fully agree with all aspects of this measure. I look forward to an open debate in formulating final legislation.

The bill authorizes appropriations for the Maritime Administration [MarAd] for fiscal year 2000 covering operations and training along with the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936. MarAd's oversight of the operations of U.S. Government-supported maritime promotion programs are as important today as ever. With increasing pressure on our nation's military resources, MarAd's administration of the Maritime Security Program provides an important link in insuring that our troops world wide receive essential supplies in a timely and efficient manner.

This bill will streamline several administrative processes associated with the Title XI Loan Guarantee Program. The measure provides the Secretary of Transportation with additional authority to secure loan guaranteed by allowing collateral collected to be held in

the U.S. Treasury. This will not only save time and money associated with negotiating depository agreements but will provide greater security for tax payers funds appropriated for this program.

Further, the bill amends Title IX of the Merchant Marine Act of 1936 to provide a waiver for eliminating the three year period bulk and breakbulk vessels newly registered under the U.S. flag must wait in order to carry government-impelled cargo; reauthorize the War Risk Insurance Program through June 30, 2005; reduces the requirement for an annual report to Congress by the Maritime Administration detailing its activities to be a biennial report; and makes clear the ownership status of the vessel names the *Jeremian O'Brien*.

I am pleased that the Subcommittee is taking this action today and will join Senator HUTCHISON and the other sponsors in expeditiously moving this authorization through the legislative proceeds.●

By Mr. SPECTER (by request):

S. 940. A bill to provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT REDUCTION ASSISTANCE ACT OF 1999

Mr. SPECTER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced, at the request of the Department of Veterans Affairs, S. 940, the proposed Department of Veterans Affairs Employment Reduction Assistance Act of 1999. The Department of Veterans Affairs submitted this legislation to the President of the Senate by an undated letter received by the President of the Senate on April 13, 1999.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Committee on Veterans' Affairs. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation which accompanied it.

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

S. 940

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Employment Reduction Assistance Act of 1999."

#### SEC. 2. DEFINITIONS.

For the purpose of this Act—

(a) "Department" means the Department of Veterans Affairs.

(b) "Employee" means an employee (as defined by section 2105 of title 5, United States Code) of the Department of Veterans Affairs, who is serving under an appointment without time limitation, and has been currently employed by such Department for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Federal Government;

(2) an employee having a disability on the basis of which such employee is eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Federal Government;

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who previously has received any voluntary separation incentive payment by the Federal Government under this Act or any other authority;

(5) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(6) any employee who, during the twenty-four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or a recruitment bonus under section 7458 of title 38, United States Code;

(7) any employee who, during the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code, or a retention bonus under section 7458 of title 38, United States Code.

(c) "Secretary" means the Secretary of Veterans Affairs.

#### SEC. 3. DEPARTMENT PLANS; APPROVAL.

(a) IN GENERAL.—The Secretary, before obligating any resources for voluntary separation incentive payments, shall submit to the Director of the Office of Management and Budget a strategic plan outlining the use of such incentive payments and a proposed organizational chart for the Department once such incentive payments have been completed.

(b) CONTENTS.—The plan shall specify—

(1) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level; the proposed coverage may be based on—

(A) any component of the Department;

(B) any occupation, level or type of position;

(C) any geographic location;

(D) other non-personal factors; or

(E) any appropriate combination of the factors in paragraphs (A), (B), (C) and (D);

(2) the manner in which such reductions will improve operating efficiency or meet actual or anticipated levels of budget or staffing resources;

(3) the period of time during which incentives may be paid; and

(4) a description of how the affected component(s) of the Department will operate without the eliminated functions and positions.

(c) APPROVAL.—The Director of the Office of Management and Budget shall approve or disapprove each plan submitted under sub-

section (a), and may make appropriate modifications to the plan with respect to the time period in which voluntary separation incentives may be paid, with respect to the number and amounts of incentive payments, or with respect to the coverage of incentives on the basis of the factors in subsection (b)(1).

#### SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Secretary may pay a voluntary separation incentive payment to an employee only to the extent necessary to reduce or eliminate the positions and functions identified by the strategic plan;

(2) EMPLOYEES WHO MAY RECEIVE INCENTIVES.—In order to receive a voluntary separation incentive payment, an employee must separate from service with the Department voluntarily (whether by retirement or resignation) under the provisions of this Act;

(b) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(1) shall be paid in a lump sum after the employee's separation;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section (without adjustment for any previous payment made under that section); or

(B) an amount determined by the Secretary, not to exceed \$25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account in determining the amount of severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(5) shall be paid from the appropriations or funds available for payment of the basic pay of the employee.

#### SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.

(a) An individual who has received a voluntary separation incentive payment under this Act and accepts any employment with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to repay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Department.

(b)(1) If the employment under subsection (a) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(2) If the employment under subsection (a) is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under subsection (a) is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique

abilities and is the only qualified applicant available for the position.

(c) For the purpose of this section, the term "employment" includes—

(1) for the purposes of subsections (a) and (b), employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(2) for the purpose of subsection (a), employment with any agency of the United States Government through a personal services contract.

#### SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.

(a) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Department who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this Act.

(b) For the purpose of this section, the term "final basic pay", with respect to an employee, means the total amount of basic pay that would be payable for a year of service by that employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

#### SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEVELS.

(a) IN GENERAL.—The total full-time equivalent employment in the Department shall be reduced by one for each separation of an employee who receives a voluntary separation incentive payment under this Act. The reduction will be calculated by comparing the Department's full-time equivalent employment for the fiscal year in which the voluntary separation payments are made with the actual full-time equivalent employment for the prior fiscal year.

(b) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the Department and take any action necessary to ensure that the requirements of this section are met.

(c) Subsection (a) of this section may be waived upon a determination by the President that—

(1) the existence of a state of war or other national emergency so requires; or

(2) the existence of an extraordinary emergency which threatens life, health, safety, property, or the environment, so requires.

#### SEC. 8. CONTINUED HEALTH INSURANCE COVERAGE.

Section 8905a(d)(4) of title 5, United States Code, is amended—

(1) in subparagraph (A) by inserting after force "or an involuntary separation from a position in or under the Department of Veterans Affairs due to a reduction in force or a title 38 staffing adjustment";

(2) in subparagraph (B) by inserting at the beginning thereof "With respect to the Department of Defense,";

(3) by redesignating subparagraph (C) as subparagraph (D);

(4) by adding a new subparagraph (C) as follows:

(C) With respect to the Department of Veterans Affairs, this paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

(i) October 1, 2004; or

(ii) February 1, 2005, if specific notice of such separation was given to such individual before October 1, 2004.

#### SEC. 9. REGULATIONS.

The Director of the Office of Personnel Management may prescribe any regulations necessary to administer the provisions of this Act.

#### SEC. 10. LIMITATION; SAVINGS CLAUSE.

(a) No voluntary separation incentive under this Act may be paid based on the separation of an employee after September 30, 2004;

(b) This Act supplements and does not supersede other authority of the Secretary.

#### SEC. 11. EFFECTIVE DATE.

(a) This Act shall take effect on the date of enactment.

#### ANALYSIS OF DRAFT BILL

The first section provides a title for the bill, "Department Of Veterans Affairs Employment Reduction Assistance Act of 1999."

Section 2 provides definitions of "Department", "employee", and "Secretary." Among the provisions, an employee who has received any previous voluntary separation incentive from the Federal Government is excluded from any incentives under this Act.

Section 3 requires the VA Secretary to submit to the Director of the Office of Management and Budget a strategic plan outlining the use of voluntary separation incentive payments to Department employees, and a proposed organizational chart for the Department once such incentive payments have been completed. The Secretary must submit the plan before obligating any resources for such incentive payments.

The plan must include the proposed coverage for offers of incentives to Department employees, specifying the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level. Coverage may be on the basis of any component of the Department of Veterans Affairs, any occupation, levels of an occupation or type of position, any geographic location, other non-personal factors, or any appropriate combination of these factors. The plan must also specify the manner in which the planned employment reductions will improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of separation incentives, and a description of how the affected component of the Department will operate without the eliminated functions and positions.

The Director of the Office of Management and Budget shall approve or disapprove each plan submitted, and may modify the plan with respect to the time period of incentives, with respect to the number and amounts of incentive payments, or the coverage of incentive offers.

Section 4 authorizes the Secretary to pay a voluntary separation incentive payment to an employee only to the extent necessary to reduce or eliminate the positions and functions identified by the strategic plan. It also requires that an employee must separate from service with the Department (whether by retirement or resignation) under the Act in order to receive a voluntary separation incentive.

The voluntary separation incentive is to be paid in a lump sum after the employee's separation. The incentive payment would be for an amount equal to the lesser of the amount of severance pay that the employee would be entitled to receive under section 5595 of title

5, United States Code, if so entitled, (without adjustment for any previous severance pay), or an amount determined by the Secretary, not to exceed \$25,000. The incentive payment is not to be a basis for the computation of any other type of Government benefit, and is not to be taken into account in determining the amount of severance pay to which an employee may be entitled based on any other separation. Appropriations for employee basic pay are to be used to pay the incentive payments.

Section 5 provides that any employee who receives a voluntary separation incentive under this Act and then accepts any employment with the Government within 5 years after separating must, prior to the first day of such employment, repay the entire amount of the incentive to the agency that paid the incentive. If the subsequent employment is with the Executive branch, including the United States Postal Service, the Director of the Office of Personnel Management may waive the repayment at the request of the agency head if the individual possesses unique ability and is the only qualified applicant available for the position. For subsequent employment in the legislative branch, the head of the entity or the appointing official may waive repayment on the same criteria. If the subsequent employment is in the judicial branch, the Director of the Administrative Office of the United States Courts may waive repayment on the same criteria. For the purpose of the repayment provisions, but not the waiver provisions, employment includes employment under a personal service contract. For the purpose of the repayment and waiver provisions, employment does not include without compensation employment.

Section 6 requires additional agency contributions to the Civil Service Retirement and Disability Fund in amounts equal to 15 percent of the final basic pay of each employee of the Department who is covered by the Civil Service Retirement System, or the Federal Employees' Retirement System, to whom a voluntary separation incentive is paid under this Act. It also defines "final basic pay".

Section 7 requires the reduction of full-time equivalent employment (FTEE) in the Department of Veterans Affairs by one FTEE for each separation of an employee who receives a voluntary separation incentive under this Act. Also it directs the Office of Management and Budget to take any action necessary to ensure compliance. Reductions will be calculated on a FTEE basis. For example, if the Department's FTEE usage in FY 1998 was 1050 FTEEs, and 50 FTEE separate during FY 1999 using voluntary separation incentive payments provided under this Act, then the Department's staffing levels at the end of FY 1999 shall not exceed 1000 FTEEs. The President may waive the reduction in FTEE in the event of war or emergency.

Section 8 amends section 8905a(d)(4) of title 5 to provide that VA employees who are involuntarily separated in a reduction in force or staffing adjustment, can continue health benefits coverage for 18 months and be required to pay only the employee's share of the premium. Section 8 also extends the section 8905a sunset provisions for VA employees for FY 1999 through FY2004.

Section 9 provides that the Director of OPM may prescribe any regulations necessary to administer the provisions of the Act.

Section 10 provides that no voluntary separation incentive under the Act may be paid

based on the separation of an employee after September 30, 2004, and that the Act supplements and does not supersede other authority of the Secretary.

Section 11 provides that the Act is effective on the date of enactment.

DEPARTMENT OF VETERANS AFFAIRS,  
Washington, DC.

Hon. ALBERT GORE, JR.  
President of the Senate,  
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the Department of Veterans Affairs (VA), I am submitting a draft bill "To provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, and for other purposes." The Department requests that it be referred to the appropriate committee for prompt consideration and enactment.

In the next several years, VA will undergo significant changes. VA believes that separation incentives can be an appropriate tool for those VA components that are redesigning their employment mix, when the use of incentives is properly related to the specific changes that are needed. Separation incentives can also be an invaluable tool for components that are restructuring and reengineering, such as the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA), as they move towards primary care and new methods of delivering services to veterans. Other VA components also are engaged in reengineering and restructuring, and would benefit from this authority. Under the draft bill, the use of the incentives would be related to the specific changes that are needed for reshaping VA for the future. Further, the draft bill would appropriately limit the time period for the incentive offers over the next five fiscal years, when VA will accomplish these changes.

This initiative is based on VA's previous experience with voluntary separation incentives under the Federal Workforce Restructuring Act of 1994, and the Treasury, Postal Service, and General Government Appropriations Act of 1997. We believe that VA used these previous authorities conservatively, responsibly, and effectively. As an example, VHA required that elements allowing a buyout must abolish the position of the employee receiving the buyout. VA has implemented a total of 9,392 buyouts under both statutes, which is significantly fewer than the total number authorized. VA's previous use of buyouts significantly assisted VA in restructuring its workforce, and enabled it to achieve downsizing and streamlining goals while minimizing adverse impact on employees, through such actions as involuntary separations.

\* \* \* \* \*

The Office of Financial Management would like to offer approximately 60 buyouts over the next five fiscal years to support its plans to reduce and adjust the staffing mix in its Franchise Fund and Supply Fund activities. Over this period, these activities will undergo changes in program and product lines, as well as new technologies. These changes will require fewer employees and employees with different skill sets the current employees. The Office of Financial Management will target any incentive payments to specific organizations, locations, occupations and grade levels.

Under the proposed bill, before obligating any resources for any incentive payments, the VA Secretary must submit to the Direc-

tor of the Office of Management and Budget (OMB) a strategic plan outlining the use of such incentive payments. The plan must specify the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level. Coverage may be on the basis of any component of VA, any occupation, levels of an occupation or type of position, any geographic location, other non-personal factors, or any appropriate combination of these factors. The plan must also specify the manner in which the planned employment reductions would improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of separation incentives, and a description of how the affected VA component would operate without the eliminated functions and positions. The Director of the OMB would approve or disapprove each plan submitted, and would have authority to modify the time period for payment of incentives, the number and amounts of incentive payments, or coverage of incentive offers. We believe that these provisions for plan approval would ensure that separation incentives are appropriately targeted within VA in view of the specific cuts that are needed, and are offered on a timely basis. Although VA would reduce full-time equivalent employment by one for each employee receiving an incentive payment who separates, we believe that service to veterans would improve as a result of the reengineering that is happening simultaneously within the system.

The authority for separation incentives would be in effect for the period starting with the enactment of this Act and ending September 30, 2004. The amount of an employee's incentive would be the lesser of the amount that the employee's severance pay would be, or an amount determined by the Secretary, not to exceed \$25,000.

Any employee who receives an incentive and then accepts any employment with the Government within 5 years after separating must, prior to the first day of employment, repay the entire amount of the incentive. The repayment requirement could be waived only under very stringent circumstances of agency need.

This proposal would provide a very useful tool to assist in reorganizing VA and reengineering services quickly, effectively, and humanely, to provide higher quality service to more veterans. We also believe that it is a tool that would allow significant cost savings. The buyout would be funded within the base in the President's FY 1999 Budget. If VA receives authority before June 30, 1999, it could implement buyouts in VBA with modest costs of \$4.7 million in FY 1999 and estimated savings of \$13.3 million annually in subsequent years. It also could implement buyouts in the Office of Financial Management with savings of \$320,000 in FY 1999 and estimated savings of approximately \$1 million annually in subsequent years. VHA would implement buyouts at the beginning of FY 2000, with expected discretionary savings of \$103 million in FY 2000 and estimated savings of \$220.1 million annually in subsequent years. VBA's savings for buyouts authorized for FY 2000 would be \$2.7 million, with estimated savings of \$15.5 million annually in subsequent years. The Office of Financial Management savings for FY 2000 would be \$992,000, with estimated savings of approximately \$1 million annually in subsequent years. In addition, each subsequent year's buyouts during the five-year period would yield additional discretionary savings.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

SHEILA CLARKE MCCREADY,  
Principal Deputy Assistant  
Secretary for Congressional Affairs.

By Mr. INHOFE:

S. 944. A bill to amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma; to the Committee on Indian Affairs.

MINERAL LEASING OF CERTAIN INDIAN LANDS IN  
OKLAHOMA

Mr. INHOFE. Mr. President, for too long, economic development in Indian country has been hindered by antiquated rules and regulations, many dating back to before the turn of the century. Many American Indians continue to struggle, denied by bureaucracy the opportunity to take steps to improve their position. I am proposing legislation today that would reverse one of these situations.

Under current law, Indian lands owned by more than one person require the consent of 100 percent of the owners before mineral development can go forward. Oftentimes, this fractionated property is owned by over one hundred people; it is difficult, if not impossible, to locate all the owners. Once found, developers must obtain their unanimous consent. As you can imagine, this creates a significant and often insurmountable obstacle for leasing or other development. Last year, Congress lowered this requirement for the Three Affiliated Tribes of the Fort Berthold Indian Reservation to a majority, which more closely resembles regulations for non-Indian land. By loosening the consent requirements, these tribes have found the right balance between economic progress and protection of landowners' rights.

I am proposing to extend last year's legislation to seven Oklahoma tribes: the Comanche, Kiowa, Apache, Fort Sill Apache, Delaware, and the Wichita and Affiliated Tribes. Oil and gas are the cornerstone of Oklahoma's economy, but these tribes have by and large been left out of this industry because of the stringent consent statutes. Increased access to their own land would greatly facilitate mineral development, bringing increased economic opportunity. These tribes and their members will now be able to undertake oil and gas exploration which was previously not possible. This will represent a significant advance toward greater economic empowerment, breaking out of the constraints now imposed on these tribes.

Common sense dictates that the first step of self-sufficiency is being allowed to use the resources you already own. This proposal will be equitable and beneficial to all parties involved. I look forward to working with my colleagues

on this and other such legislation that would help American Indians achieve greater economic independence.

By Mr. DURBIN (for himself, Mr. LEAHY, Mr. KENNEDY, Mr. FEINGOLD, and Mr. SARBANES):

S. 945. A bill to amend title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

CONSUMER BANKRUPTCY REFORM ACT OF 1999

Mr. DURBIN. Mr. President, today, joined by colleagues, Senator LEAHY, Senator KENNEDY, Senator FEINGOLD and Senator SARBANES, I am introducing the bankruptcy reform bill that passed the Senate last year by a vote of 97-1.

A constant theme that has guided me throughout the consideration of bankruptcy legislation is balanced reform. You cannot have meaningful bankruptcy reform without addressing both sides of the problem—irresponsible debtors and irresponsible creditors.

Unfortunately, the bill we worked so hard to develop, was decimated in conference and the result was a one-sided bill designed to reward the credit industry and penalize American consumers. I could not support it. I hope this year will be different.

The bankruptcy code is delicate balance. When you push one thing, almost invariably something else will give. For that reason, it is crucial for bankruptcy reform to be thoughtful and for the changes to be targeted and not create more problems than they attempt to solve.

This year, Senator GRASSLEY has introduced S.625, the bankruptcy reform bill of 1999. This bill has more similarities to last year's conference report than the bipartisan measure that passed the Senate last year by an overwhelming margin.

The Durbin-Leahy bill is fairer. S.625 uses a means test adopted from IRS collection allowances. The test would require every debtor, regardless of income, who files for Chapter 7 bankruptcy to be scrutinized by the U.S. trustee to determine whether the filing is abusive. The bill creates a presumption that a case is abusive if a debtor can pay the lesser of 25% of unsecured nonpriority claims or \$15,000 over 5 years. The IRS means test was designed for use on a case by case basis, not as an automatic template.

In my home state, the average annual income for bankruptcy filers in the Central District of Illinois for 1998 was \$20,448, yet the average amount of unsecured debt was \$22,900. This figure shows that many filers were hopelessly insolvent. They owed more money on debt that had no collateral than their total income for the entire year. These debtors don't even come close to meeting the standards that would require them to convert their case to a chapter 13 case, but they will be forced to go

through additional scrutiny at extra costs to everyone involved.

In contrast, the Durbin-Leahy bill gives courts discretion to dismiss or convert a Chapter 7 bankruptcy case if the debtor can fund a Chapter 13 repayment plan. One of the factors for the court to consider in making the decision is whether the debtor is capable of paying 30% of unsecured claims under a 3 year plan. This reform can address abuses without the complexity of certifying ability to pay in every case as required by S.625.

The Durbin-Leahy bill is cheaper because every case does not go through means testing. By requiring the trustee to submit reports on all filers the cost to trustees is dramatically increased with little reward.

The means test in S. 625 looks a lot like the means test in the House bill. We now know that the means test in the House bill would only apply to far less than 10% of Chapter 7 filings. A study released by the American Bankruptcy Institute found that by using the test from the House bill, 97% of sample Chapter 7 debtors had too little income to repay even 20% of their unsecured debts over five years. As a result, only 3% of the sample Chapter 7 filers had sufficient repayment capacity to be barred from Chapter 7 under the rigid means test. This means 100% of the filers would have to go through a process that would only apply to 3% of the cases.

Beyond the administrative costs, there is the unneeded stress on poor families. According to the National Conference on Bankruptcy Judges, a review of surveys of Chapter 7 cases from 46 judicial districts in 33 states reveals that the median gross annual income for the 3151 cases in 1998 was \$21,540, some \$15,000 lower than the 1997 national median income for all families in the United States. Yet, the median amount of unsecured nonpriority debt for these same debtors was \$23,411. These people are insolvent, and forcing them to go through unnecessary hoops for little reward is unfair and ineffective.

The Durbin-Leahy bill is more balanced. The Durbin-Leahy bill includes credit disclosures designed to help families understand their debt and prevent them from incurring debt which makes them financially vulnerable. Many families file for bankruptcy after a health crisis or some other catastrophic event that prevents them from paying their debts. For example, the survey conducted by the bankruptcy judges shows that on average over 25% of bankruptcy cases involve debtors with medical debts over \$1000. By requiring more complete information for debtors, they can make better credit decisions and avoid bankruptcy altogether.

The Durbin-Leahy bill addresses abusive creditor practices. The Durbin-

Leahy bill protects the elderly from predatory lending practices. Much of our discussion concerning reform of the nation's bankruptcy laws has focused upon perceived abuses of the bankruptcy system by consumer debtors. Far less discussion has occurred with regard to abuses by creditors that help usher the nation's consumers into bankruptcy. I believe that abuses exist on both sides of the debtor-creditor relationship and that bankruptcy reform is incomplete if it fails to address documented abuses among creditors.

Last year, I worked to protect elderly Americans by prohibiting a high-cost mortgage lender who extended credit in violation of the provisions of the Truth-in-Lending Act from collecting its claim in bankruptcy. If the lender has failed to comply with the requirements of the Truth-in-Lending Act for high-cost second mortgages, the lender will have absolutely no claim against the bankruptcy estate. This provision is not aimed at all lenders or at all second mortgages. Indeed, it is aimed only at the worst, most predatory, of these by and large worthy lenders. It is aimed only at practices that are already illegal and it does not deal with technical or immaterial violations of the Truth in Lending Act.

Disallowing the claims of predatory lenders in bankruptcy cases will not end these predatory practices altogether. Yet it is one step we can take to curb creditor abuse in a situation where the lender bears primary responsibility for the deterioration of a consumer's financial situation.

I encourage my Senate colleagues to join Senator LEAHY and me in this effort. Bankruptcy reform must be balanced and must not create a nation of financial outlaws.

Mr. President, I ask unanimous consent that a copy 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. 945

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

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

(a) SHORT TITLE.—This Act may be cited as the "Consumer Bankruptcy Reform Act of 1999".

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

Sec. 1. Short title; table of contents.

**TITLE I—NEEDS-BASED BANKRUPTCY**

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

**TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS**

Sec. 201. Allowance of claims or interests.

Sec. 202. Exceptions to discharge.

Sec. 203. Effect of discharge.

Sec. 204. Automatic stay.

Sec. 205. Discharge.

Sec. 206. Discouraging predatory lending practices.

Sec. 207. Enhanced disclosure for credit extensions secured by dwelling.

- Sec. 208. Dual-use debit card.
- Sec. 209. Enhanced disclosures under an open end credit plan.
- Sec. 210. Violations of the automatic stay.
- Sec. 211. Discouraging abusive reaffirmation practices.
- Sec. 212. Sense of Congress regarding the homestead exemption.
- Sec. 213. Encouraging creditworthiness.
- Sec. 214. Treasury Department study regarding security interests under an open end credit plan.

#### TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

- Sec. 301. Notice of alternatives.
- Sec. 302. Fair treatment of secured creditors under chapter 13.
- Sec. 303. Discouragement of bad faith repeat filings.
- Sec. 304. Timely filing and confirmation of plans under chapter 13.
- Sec. 305. Application of the codebtor stay only when the stay protects the debtor.
- Sec. 306. Improved bankruptcy statistics.
- Sec. 307. Audit procedures.
- Sec. 308. Creditor representation at first meeting of creditors.
- Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.
- Sec. 310. Stopping abusive conversions from chapter 13.
- Sec. 311. Prompt relief from stay in individual cases.
- Sec. 312. Dismissal for failure to timely file schedules or provide required information.
- Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.
- Sec. 314. Discharge under chapter 13.
- Sec. 315. Nondischargeable debts.
- Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.
- Sec. 317. Definition of household goods and antiques.
- Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 319. Adequate protection of lessors and purchase money secured creditors.
- Sec. 320. Limitation.
- Sec. 321. Miscellaneous improvements.
- Sec. 322. Bankruptcy judgeships.
- Sec. 323. Definition of domestic support obligation.
- Sec. 324. Priorities for claims for domestic support obligations.
- Sec. 325. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 326. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 328. Continued liability of property.
- Sec. 329. Protection of domestic support claims against preferential transfer motions.
- Sec. 330. Protection of retirement savings in bankruptcy.
- Sec. 331. Additional amendments to title 11, United States Code.
- Sec. 332. Debt limit increase.
- Sec. 333. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.

- Sec. 334. Prohibition of retroactive assessment of disposable income.
- Sec. 335. Amendment to section 1325 of title 11, United States Code.
- Sec. 336. Protection of savings earmarked for the postsecondary education of children.

#### TITLE IV—FINANCIAL INSTRUMENTS

- Sec. 401. Bankruptcy Code amendments.
- Sec. 402. Damage measure.
- Sec. 403. Asset-backed securitizations.
- Sec. 404. Prohibition on certain actions for failure to incur finance charges.
- Sec. 405. Fees arising from certain ownership interests.
- Sec. 406. Bankruptcy fees.
- Sec. 407. Applicability.

#### TITLE V—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 501. Amendment to add chapter 6 to title 11, United States Code.
- Sec. 502. Amendments to other chapters in title 11, United States Code.

#### TITLE VI—MISCELLANEOUS

- Sec. 601. Executory contracts and unexpired leases.
- Sec. 602. Expedited appeals of bankruptcy cases to courts of appeals.
- Sec. 603. Creditors and equity security holders committees.
- Sec. 604. Repeal of sunset provision.
- Sec. 605. Cases ancillary to foreign proceedings.
- Sec. 606. Limitation.
- Sec. 607. Amendment to section 546 of title 11, United States Code.
- Sec. 608. Amendment to section 330(a) of title 11, United States Code.

#### TITLE VII—TECHNICAL CORRECTIONS

- Sec. 701. Adjustment of dollar amounts.
- Sec. 702. Extension of time.
- Sec. 703. Who may be a debtor.
- Sec. 704. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
- Sec. 705. Limitation on compensation of professional persons.
- Sec. 706. Special tax provisions.
- Sec. 707. Effect of conversion.
- Sec. 708. Automatic stay.
- Sec. 709. Allowance of administrative expenses.
- Sec. 710. Priorities.
- Sec. 711. Exemptions.
- Sec. 712. Exceptions to discharge.
- Sec. 713. Effect of discharge.
- Sec. 714. Protection against discriminatory treatment.
- Sec. 715. Property of the estate.
- Sec. 716. Preferences.
- Sec. 717. Postpetition transactions.
- Sec. 718. Technical amendment.
- Sec. 719. Disposition of property of the estate.
- Sec. 720. General provisions.
- Sec. 721. Appointment of elected trustee.
- Sec. 722. Abandonment of railroad line.
- Sec. 723. Contents of plan.
- Sec. 724. Discharge under chapter 12.
- Sec. 725. Extensions.
- Sec. 726. Bankruptcy cases and proceedings.
- Sec. 727. Knowing disregard of bankruptcy law or rule.
- Sec. 728. Rolling stock equipment.
- Sec. 729. Curbing abusive filings.
- Sec. 730. Study of operation of title 11 of the United States Code with respect to small businesses.
- Sec. 731. Transfers made by nonprofit charitable corporations.
- Sec. 732. Effective date; application of amendments.

#### TITLE I—NEEDS-BASED BANKRUPTCY

##### SEC. 101. CONVERSION.

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

##### SEC. 102. DISMISSAL OR CONVERSION.

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

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

**"§ 707. Dismissal of a case or conversion to a case under chapter 13";**

and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

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

(i) in the first sentence—

(I) by striking "but not" and inserting "or";

(II) by inserting ", or, with the debtor's consent, convert such a case to a case under chapter 13," after "consumer debts"; and

(III) by striking "substantial abuse" and inserting "abuse"; and

(ii) by striking "There shall be a presumption in favor of granting the relief requested by the debtor."; and

(C) by adding at the end the following:

"(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

"(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

"(B) the debtor filed a petition for the relief in bad faith.

"(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

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

"(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

"(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

"(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

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

"(ii) determined that the petition—

"(I) is well grounded in fact; and

"(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

"(4)(A) Except as provided in subparagraph (B) and paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

"(i) the court does not grant the motion; and

“(ii) the court finds that—  
“(I) the position of the party that brought the motion was not substantially justified; or

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

“(B) A party in interest that has a claim of an aggregate amount less than \$1,000 shall not be subject to subparagraph (A).

“(5)(A) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this subsection if the debtor and the debtor’s spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size.

“(B) For purposes of subparagraph (A), for a household of more than 4 individuals, the median monthly income for that household shall be—

“(1) the median monthly income of a household of 4 individuals; plus

“(2) \$583 for each additional member of that household.”

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

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

**TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS**

**SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.**

Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court may award the debtor reasonable attorneys’ fees and costs if, after an objection is filed by a debtor, the court—

“(A)(i) disallows the claim; or

“(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest; and

“(B) finds the position of the party filing the claim is not substantially justified.

“(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys’ fees and costs under paragraph (1), award such damages as may be required by the equities of the case.”

**SEC. 202. EXCEPTIONS TO DISCHARGE.**

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

(1) in subsection (a)(2)(A), by striking “a false representation” and inserting “a material false representation upon which the defrauded person justifiably relied”; and

(2) by striking subsection (d) and inserting the following:

“(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys’ fees and costs.

“(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys’ fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”

**SEC. 203. EFFECT OF DISCHARGE.**

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

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

“(j) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

“(1) the greater of—

“(A)(i) the amount of actual damages; multiplied by

“(ii) 3; or

“(B) \$5,000; and

“(2) costs and attorneys’ fees.”

**SEC. 204. AUTOMATIC STAY.**

Section 362(h) of title 11, United States Code, is amended to read as follows:

“(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

“(A) actual damages; and

“(B) reasonable costs, including attorneys’ fees.

“(2) In addition to recovering actual damages, costs, and attorneys’ fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.”

**SEC. 205. DISCHARGE.**

Section 727 of title 11, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”; and

(2) by adding at the end the following:

“(f)(1) The court may award the debtor reasonable attorneys’ fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

“(A) is denied; or

“(B) is withdrawn after the debtor has repaid.

“(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.”

**SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) the claim is based on a secured debt if the creditor has failed to comply with the requirements of subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).”

**SEC. 207. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY DWELLING.**

(a) OPEN-END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking “CONSULTATION OF TAX ADVISOR.—A statement that the” and inserting the following: “TAX DEDUCTIBILITY.—A statement that—

“(A) the”; and

(B) by striking the period at the end and inserting the following: “; and

“(B) in any case in which the extension of credit exceeds the fair market value of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.”

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking “If any” and inserting the following:

“(1) IN GENERAL.—If any”; and

(B) by adding at the end the following:

“(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling shall include a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.”

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

“(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.”; and

(B) in subsection (b), by adding at the end the following:

“(3) In the case of a credit transaction described in paragraph (15) of subsection (a),

disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.”

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

“(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling shall clearly and conspicuously state that—

“(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(2) the consumer may want to consult a tax advisor for further information regarding the deductibility of interest and charges.”

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act.

#### SEC. 208. DUAL-USE DEBIT CARD.

(a) CONSUMER LIABILITY.—

(1) IN GENERAL.—Section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g) is amended—

(A) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively;

(B) in subsection (a)—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(ii) by inserting “CARDS NECESSITATING UNIQUE IDENTIFIER.—

“(1) IN GENERAL.—” after “(a)”;

(iii) by striking “other means of access can be identified as the person authorized to use it, such as by signature, photograph,” and inserting “other means of access can be identified as the person authorized to use it by a unique identifier, such as a photograph, retina scan,”; and

(iv) by striking “Notwithstanding the foregoing,” and inserting the following:

“(2) NOTIFICATION.—Notwithstanding paragraph (1),” and

(C) by inserting after subsection (a) the following new subsections:

“(b) CARDS NOT NECESSITATING UNIQUE IDENTIFIER.—A consumer shall be liable for an unauthorized electronic fund transfer only if—

“(1) the liability is not in excess of \$50;

“(2) the unauthorized electronic fund transfer is initiated by the use of a card that has been properly issued to a consumer other than the person making the unauthorized transfer as a means of access to the account of that consumer for the purpose of initiating an electronic fund transfer;

“(3) the unauthorized electronic fund transfer occurs before the card issuer has been notified that an unauthorized use of the card has occurred or may occur as the result of loss, theft, or otherwise; and

“(4) such unauthorized electronic fund transfer did not require the use of a code or other unique identifier (other than a signature), such as a photograph, fingerprint, or retina scan.

“(c) NOTICE OF LIABILITY AND RESPONSIBILITY TO REPORT LOSS OF CARD, CODE, OR OTHER MEANS OF ACCESS.—No consumer shall be liable under this title for any unauthorized electronic fund transfer unless the consumer has received in a timely manner the notice required under section 905(a)(1), and any subsequent notice required under section 905(b) with regard to any change in

the information which is the subject of the notice required under section 905(a)(1).”

(2) CONFORMING AMENDMENT.—Section 905(a)(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)(1)) is amended to read as follows:

“(1) the liability of the consumer for any unauthorized electronic fund transfer and the requirement for promptly reporting any loss, theft, or unauthorized use of a card, code, or other means of access in order to limit the liability of the consumer for any such unauthorized transfer;”

(b) VALIDATION REQUIREMENT FOR DUAL-USE DEBIT CARDS.—

(1) IN GENERAL.—Section 911 of the Electronic Fund Transfer Act (15 U.S.C. 1693i) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

“(c) VALIDATION REQUIREMENT.—No person may issue a card described in subsection (a), the use of which to initiate an electronic fund transfer does not require the use of a code or other unique identifier other than a signature (such as a fingerprint or retina scan), unless—

“(1) the requirements of paragraphs (1) through (4) of subsection (b) are met; and

“(2) the issuer has provided to the consumer a clear and conspicuous disclosure that use of the card may not require the use of such code or other unique identifier.”

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 911(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693i(d)) (as redesignated by subsection (a)(1) of this section) is amended by striking “For the purpose of subsection (b)” and inserting “For purposes of subsections (b) and (c)”.

#### SEC. 209. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) In a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

“(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

“(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

“(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

“(iv) the following statement: ‘If your current rate is a temporary introductory rate, your total costs may be higher.’

“(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.”

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish

model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: “In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) of this subsection only for failing to comply with the requirements of section 125, 127(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).”

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding at the end the following:

“(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

“(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: ‘Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.’

“(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.”

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 105 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 2001.

SEC. 210. VIOLATIONS OF THE AUTOMATIC STAY.

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

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period and inserting “; and”;

(3) by adding at the end the following:

“(9) any communication threatening a debtor, at any time after the commencement and before the granting of a discharge in a case under this title, of an intention—

“(A) to file a motion to determine the dischargeability of a debt;

“(B) to file a motion under section 707(b) to dismiss or convert the case; or

“(C) to repossess collateral from the debtor to which the stay applies.”

**SEC. 211. DISCOURAGING ABUSIVE REAFFIRMATION PRACTICES.**

Section 524 of title 11, United States Code, is amended—

(1) in subsection (c)—  
(A) in paragraph (2)—  
(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by adding “and” after the semicolon; and

(iii) by adding at the end the following:  
“(C) such agreement contains a clear and conspicuous statement that advises the debtor which portion of the debt to be reaffirmed is attributable to—

“(i) principal;  
“(ii) interest;  
“(iii) late fees;  
“(iv) creditor’s attorneys fees; or  
“(v) expenses or other costs relating to the collection of the debt;”;

(B) in paragraph (5), by striking “and” after the semicolon;

(C) in paragraph (6)—

(i) in subparagraph (A), by striking the period and inserting “; except that”; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) to the extent that the debt is a consumer debt secured by real property or is a debt described in paragraph (7), subparagraph (A) shall not apply;”;

(E) by adding at the end the following:

“(7) in a case concerning an individual—

“(A)(i) if the consideration for such agreement is based in whole or in part—

“(I) on an unsecured consumer debt; or

“(II) on a debt for an item of personality with a value of \$250 or less at the point of purchase; and

“(ii) in which the creditor asserts a purchase money security interest; and

“(B) if the court, approves such agreement as—

“(i) in the best interest of the debtor in light of the debtor’s income and expenses;

“(ii) not imposing an undue hardship on the future ability of the debtor to pay for the needs of children and other dependents (including court ordered support);

“(iii) not requiring the debtor to pay the creditor’s attorney’s fees, expenses or other costs relating to the collection of the debt;

“(iv) not entered into to protect property that is necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

“(v) not entered into after coercive threats or actions by the creditor in the creditor’s course of dealings with the debtor; and

“(vi) not unfair because excessive in amount based upon the value of the collateral.”; and

(2) in subsection (d)(2), by striking “requirements of subsection (c)(6) of this section if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor” and inserting “applicable requirements of paragraphs (6) and (7) of subsection (c)”.

**SEC. 212. SENSE OF CONGRESS REGARDING THE HOMESTEAD EXEMPTION.**

(a) FINDINGS.—The Congress finds that—

(1) one of the most flagrant abuses of the bankruptcy system involves misuse of the homestead exemption under section 522 of title 11, United States Code, which allows a debtor to exempt the debtor’s home, up to a certain value, as established by State law, from being sold off to satisfy debts;

(2) while the vast majority of States responsibly cap the exemption at not more than \$40,000, 5 States exempt homes regardless of their value;

(3) in the few States with unlimited homestead exemptions, debtors can shield their assets in luxury homes, while legitimate creditors receive little or nothing;

(4) beneficiaries of the homestead exemption include convicted insider traders and savings and loan criminals, while short-changed creditors include children, spouses, governments, and banks; and

(5) the homestead exemption should be capped at \$100,000 to prevent such high-profile abuses.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) meaningful bankruptcy reform cannot be achieved without capping the homestead exemption; and

(2) bankruptcy reform legislation should include a cap of \$100,000 on the homestead exemption under title 11, United States Code.

**SEC. 213. ENCOURAGING CREDITWORTHINESS.**

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (referred to in this section as the “Board”) shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 24 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers in connection with extensions of credit; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

**SEC. 214. TREASURY DEPARTMENT STUDY REGARDING SECURITY INTERESTS UNDER AN OPEN END CREDIT PLAN.**

(a) STUDY.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the “Board”), in consultation with the Secretary of the Treasury, the general credit industry, and consumer groups, shall conduct a study of the adequacy of information received by consumers regarding the creation of security interests under open end credit plans (as defined in the Truth in Lending Act).

(b) FINDINGS.—The study required under subsection (a) shall include the findings of the Board regarding—

(1) whether consumers understand at the time of purchase of property under an open end credit plan that such property may serve as collateral under that credit plan;

(2) whether consumers understand at the time of purchase the legal consequences of

disposing of property that is purchased under an open end credit plan and is subject to a security interest under that plan; and

(3) whether creditors holding security interests in property purchased under an open end credit plan use such security interests to coerce reaffirmations of existing debts under section 524 of title 11, United States Code.

(c) CONSIDERATIONS.—In formulating the findings under subsection (b), the Board shall consider, among other factors the Board determines relevant, prevailing industry practices in this area.

(d) DISCLOSURE RECOMMENDATIONS.—The study required under subsection (a) shall include the recommendations of the Board regarding the utility and practicality of additional disclosures by credit card issuers at the time of purchase regarding security interests under open end credit plans, including—

(1) disclosures of the specific property in which the creditor will receive a security interest;

(2) disclosures of the consequences of non-payment of the credit card balance, including how the security interest may be enforced; and

(3) disclosures of the process by which payments made under the plan will be credited with respect to the lien created by the security contract and other debts under the plan.

(e) SUBMISSION OF REPORT.—Not later than 180 days after the date of enactment of this Act, the Board shall submit a report of its findings under the study required by this section to the Committee on the Judiciary of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, and the Committee on Banking and Financial Services of the House of Representatives.

**TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM****SEC. 301. NOTICE OF ALTERNATIVES.**

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

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

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

“(2) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee or the bankruptcy administrator for that district.”.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The debtor shall—”;

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

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;

“(ii) a schedule of current income and current expenditures;

“(iii) a statement of the debtor’s financial affairs and, if applicable, a certificate—

“(I) of an attorney whose name is on the petition as the attorney for the debtor or

any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

“(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

“(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

“(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

“(vi) a statement of the amount of projected monthly net income, itemized to show how calculated; and

“(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;” and

(3) by adding at the end the following:

“(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

“(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

“(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

“(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

“(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

“(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

“(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

“(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

“(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

“(d)(1) A statement referred to in subsection (c)(4) shall disclose—

“(A) the amount and sources of income of the debtor;

“(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

“(C) the identity of any persons who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy

administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (e).

“(e)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall prepare, and submit to Congress a report that—

“(A) assesses the effectiveness of the procedures under paragraph (1); and

“(B) if appropriate, includes proposed legislation—

“(i) to further protect the confidentiality of tax information; and

“(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.

“(f) If requested by the United States trustee or a trustee serving in the case, the debtor provides a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor and such other personal identifying information relating to the debtor that establishes the identity of the debtor.”

(c) TITLE 28.—Section 586(a) of title 28, 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”; and

(3) by adding at the end the following:

“(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.”

#### SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.

(a) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking the matter preceding subparagraph (A) and inserting the following:

“(5) with respect to an allowed claim provided for by the plan that is secured under applicable nonbankruptcy law by reason of a lien on property in which the estate has an interest or is subject to a setoff under section 553—”; and

(2) by adding at the end of the subsection the following flush sentence:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph.”

(b) PAYMENT OF HOLDERS OF CLAIMS SECURED BY LIENS.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and”

(c) DETERMINATION OF SECURED STATUS.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

“(e) Subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor during the 90-day period preceding the date of filing of the petition.”

#### SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.

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

(1) by inserting “(1)” before “Except as”;

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

(3) by striking “(2) the stay” and inserting “(B) the stay”;

(4) by striking “(A) the time” and inserting “(i) the time”;

(5) by striking “(B) the time” and inserting “(ii) the time”; and

(6) by adding at the end the following:

“(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

“(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

“(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)) was pending during the preceding year but was dismissed.

“(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

“(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(A) with respect to the creditors involved, if—

“(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

“(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

“(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

“(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

“(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

“(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

“(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

“(B) with respect 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 that case, that action was still pending or had been resolved by terminating, conditioning,

or limiting the stay with respect to actions of that creditor.

“(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

“(i) for a definite period of not less than 1 year; or

“(ii) indefinitely.

“(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

“(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

“(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

“(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

“(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.”.

#### SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

##### “§ 1321. Filing of plan

“The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.”.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: “That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.”.

#### SEC. 305. APPLICATION OF THE CREDITOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(2) by adding at the end the following:

“(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

“(i) the individual that received that consideration; or

“(ii) property not in the possession of the debtor that secures that claim.

“(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

“(i) an individual described in subparagraph (A)(i); or

“(ii) property described in subparagraph (A)(ii).

“(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor’s interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor’s obligations under the lease.”.

#### SEC. 306. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

##### “§ 159. Bankruptcy statistics

“(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Office’).

“(b) The Director shall—

“(1) compile the statistics referred to in subsection (a);

“(2) make the statistics available to the public; and

“(3) not later than October 31, 1999, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

“(1) be itemized, by chapter, with respect to title 11;

“(2) be presented in the aggregate and for each district; and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed under section 2075 of this title and filed by those debtors;

“(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

“(C) the aggregate amount of debt discharged in 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 filing of the petition and the closing of the case;

“(E) for the reporting period—

“(i) the number of cases in which a reaffirmation was filed; and

“(ii)(I) the total number of reaffirmations filed;

“(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

“(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

“(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders determining the value of property securing a claim issued;

“(ii) the number of cases dismissed for failure to make payments under the plan; and

“(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

“(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

#### SEC. 307. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

“(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and”;

and

(2) by adding at the end the following:

“(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

“(B) Those procedures shall—

“(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

“(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 500 cases in each Federal judicial district shall be selected for audit;

“(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

“(iv) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

“(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

“(3)(A) The report of each audit conducted under this subsection 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 where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

“(B) If a material misstatement of income or expenditures or of assets is reported the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney under section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor’s discharge under section 727(d) of title 11.”.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, UNITED STATES CODE.—Section 521(a) of title 11, United States Code, as amended by section 301(b) of this Act, is amended in paragraphs (3) and (4) by inserting “or an auditor appointed under section 586 of title 28” after “serving in the case” each place it appears.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, UNITED STATES CODE.—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 and inserting “; or”;

(3) by adding at the end the following:

“(4) the debtor has failed to explain satisfactorily—

“(A) a material misstatement in an audit performed under section 586(f) of title 28; or  
“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f) of title 28.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

#### SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(c)”;

(2) by adding at the end the following:

“(2) Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor.

“(3) Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.”.

#### SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), by striking “, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice”;

(2) by adding at the end the following:

“(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

“(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor’s account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

“(3) For purposes of this section, the term ‘notice’ includes—

“(A) any correspondence from the debtor to the creditor after the commencement of the case;

“(B) any statement of the debtor’s intention under section 521(a)(2);

“(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

“(D) any notice of a hearing under section 1324.

“(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

“(2) If the court or the debtor is required to give the creditor notice, not later than 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

“(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

“(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

“(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.”.

#### SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (B)—

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

(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, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.”.

#### SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

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

(1) by inserting “(1)” after “(e)”;

(2) by adding at the end the following:

“(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

“(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

“(B) that 60-day period is extended—

“(i) by agreement of all parties in interest; or

“(ii) by the court for such specific period of time as the court finds is required for good cause.”.

#### SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:

“(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

“(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

“(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 50 days to file the information required under section 521(a)(1) if the court finds justification for extending the period for the filing.”.

#### SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, as amended by section 304 of this Act, is amended—

(1) by striking “After” and inserting the following:

“(a) Except as provided in subsection (b) and after”;

(2) by adding at the end the following:

“(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a).”.

#### SEC. 314. DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) provided for under section 1322(b)(5);

“(2) of the kind specified in paragraph (2), (4), (5), (8), or (9) of section 523(a);

“(3) for restitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime; or

“(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.”.

#### SEC. 315. NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

“(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228 (a) or (b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly created debt.”.

#### SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.

Section 523(a)(2) of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: “(and, for purposes of this subparagraph, consumer debts owed in an aggregate amount greater than or equal to \$400 incurred for goods or services not reasonably necessary for the maintenance or support of the debtor or a dependent child of the debtor to a single creditor that are incurred during the 90-day period preceding the date of the order for relief shall be presumed to be non-dischargeable under this subparagraph); or”;

(2) in subparagraph (B), by striking “or” at the end; and

(3) by striking subparagraph (C).

**SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate regulations defining the term “household goods”, to be applied to section 522(d)(3) of title 11, United States Code, in a manner suitable and appropriate for cases under that title.

(b) ABSENCE OF FINAL REGULATIONS.—If final regulations are not promulgated under subsection (a) and in effect by the date that is 180 days after the date enactment of this Act, then, for purposes of section 522(d)(3) of title 11, United States Code, the term “household goods” shall have the meaning given that term in section 444.1(i) of title 16, Code of Federal Regulations, except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child.

**SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.**

(a) AUTOMATIC STAY.—Section 362 of title 11, United States Code, as amended by section 303 of this Act, is amended—

(1) in subsection (c)(1), in the matter preceding subparagraph (A), by striking “(e) and (f)” and inserting “(e), (f), and (h)”;

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

“(h) In an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim that is in an amount greater than \$3,000, or subject to an unexpired lease with a remaining term of at least 1 year (in any case in which the debtor owes at least \$3,000 for a 1-year period), if within 30 days after the expiration of the applicable period under section 521(a)(2)—

“(1)(A) the debtor fails to timely file a statement of intention to surrender or retain the property; or

“(B) if the debtor indicates in the filing that the debtor will retain the property, the debtor fails to meet an applicable requirement to—

“(i) either—

“(I) redeem the property pursuant to section 722; or

“(II) reaffirm the debt the property secures pursuant to section 524(c); or

“(ii) assume the unexpired lease pursuant to section 365(d) if the trustee does not do so; or

“(2) the debtor fails to timely take the action specified in a statement of intention referred to in paragraph (1)(A) (as amended, if that statement is amended before expiration of the period for taking action), unless—

“(A) the statement of intention specifies reaffirmation; and

“(B) the creditor refuses to reaffirm the debt on the original contract terms for the debt.”.

(b) DEBTOR’S DUTIES.—Section 521(a)(2) of title 11, United States Code, as redesignated by section 301(b) of this Act, is amended—

(1) in the matter preceding subparagraph (A), by striking “consumer”;

(2) in subparagraph (B)—

(A) by striking “forty-five days after the filing of a notice of intent under this section” and inserting “30 days after the first meeting of creditors under section 341(a)”;

and

(B) by striking “forty-five-day period” and inserting “30-day period”;

(3) in subparagraph (C), by inserting “, except as provided in section 362(h)” before the semicolon.

**SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.**

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

**“§ 1307A. Adequate protection in chapter 13 cases**

“(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2)(A), to—

“(i) any lessor of personal property; and

“(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

“(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

“(i) the creditor begins to receive actual payments under the plan; or

“(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

“(I) the lessor or creditor; or

“(II) any third party acting under claim of right, as applicable.

“(2) The payments referred to in paragraph (1)(A) shall be determined by the court.

“(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount and timing of the dates of payment of payments made under subsection (a).

“(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

“(B) The amount of a payment referred to in paragraph (1) shall not be less than the reasonable depreciation of the personal property described in subsection (a)(1), determined on a month-to-month basis.

“(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides—

“(1) for payments to a creditor or lessor described in subsection (a)(1); and

“(2) for the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

“(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United

States Code, is amended by inserting after the item relating to section 1307 the following:

“1307A. Adequate protection in chapter 13 cases.”.

**SEC. 320. LIMITATION.**

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

(1) in subsection (b)(2)(A), by inserting “subject to subsection (n),” before “any property”; and

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

“(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate \$100,000 in value in—

“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

“(C) a burial plot for the debtor or a dependent of the debtor.

“(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.”.

**SEC. 321. MISCELLANEOUS IMPROVEMENTS.**

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

“(h)(1) Subject to paragraphs (2) and (3) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, received credit counseling, including, at a minimum, participation in an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing an initial budget analysis, through a credit counseling program (offered through an approved credit counseling service described in section 111(a)) that has been approved by—

“(A) the United States trustee; or

“(B) the bankruptcy administrator for the district in which the petition is filed.”.

“(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

“(B) Each United States trustee or bankruptcy administrator that makes a determination under subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than annually thereafter.

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

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

“(ii) states that the debtor requested credit counseling services from an approved credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

“(iii) is satisfactory to the court.

“(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.”

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

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

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

(3) by adding at the end the following:

“(1) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111 that was administered or approved by—

“(A) the United States trustee; or

“(B) the bankruptcy administrator for the district in which the petition is filed.”

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

“(f) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111 that was administered or approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district in which the petition is filed.”

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 318(b) of this Act, is amended by adding at the end the following:

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

“(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

“(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).”

(e) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

“(i) within the applicable period of time prescribed under section 109(h), the debtor received credit counseling through a credit counseling program in accordance with section 109(h); and”

(f) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“§ 111. Credit counseling services; financial management instructional courses

“(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and that have been approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district.

“(b) The United States trustee or each bankruptcy administrator referred to in subsection (a)(1) shall—

“(1) make available to debtors who are individuals an instructional course concerning personal financial management, under the direction of the bankruptcy court; and

“(2) maintain a list of instructional courses concerning personal financial management that are operated by a private entity and that have been approved by the United States trustee or that bankruptcy administrator.”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. Credit counseling services; financial management instructional courses.”

(g) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(3) by inserting after paragraph (13) the following:

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

“(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

“(B) includes an individual condominium or co-operative unit;”

(2) by inserting after paragraph (27), the following:

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

“(A) property commonly conveyed with a principal residence in the area where the real estate is located;

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

“(C) all replacements or additions;”

SEC. 322. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 1999”.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge applies shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of

Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: “Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.”

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(g)(1) In this subsection, the term ‘travel expenses’—

“(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

“(B) shall not include the travel expenses of a bankruptcy judge if—

“(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

“(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

“(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

“(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

“(B) The annual report under this paragraph shall include—

“(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

“(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

“(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

“(4)(A) The Director of the Administrative Office of the United States Courts shall—

“(i) consolidate the reports submitted under paragraph (3) into a single report; and

“(ii) annually submit such consolidated report to Congress.

“(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).”

**SEC. 323. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.**

Section 101 of title 11, United States Code, as amended by section 321(g) of this Act, is amended—

(1) by striking paragraph (12A); and  
(2) by inserting after paragraph (14) the following:

“(14A) ‘domestic support obligation’ means a debt that accrues before or after the entry of an order for relief under this title that is—

“(A) owed to or recoverable by—

“(i) a spouse, former spouse, or child of the debtor or that child’s legal guardian; or

“(ii) a governmental unit;

“(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

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

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

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

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.”

**SEC. 324. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.**

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

(1) by striking paragraph (7);

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

(3) in paragraph (2), as redesignated, by striking “First” and inserting “Second”;

(4) in paragraph (3), as redesignated, by striking “Second” and inserting “Third”;

(5) in paragraph (4), as redesignated, by striking “Third” and inserting “Fourth”;

(6) in paragraph (5), as redesignated, by striking “Fourth” and inserting “Fifth”;

(7) in paragraph (6), as redesignated, by striking “Fifth” and inserting “Sixth”;

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

and  
(9) by inserting before paragraph (2), as redesignated, the following:

“(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

“(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

“(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.”

**SEC. 325. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.**

Title 11, United States Code, is amended—  
(1) in section 1129(a), by adding at the end the following:

“(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.”;

(2) in section 1325(a)—

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

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

(C) by adding at the end the following:

“(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.”; and

(3) in section 1328(a), as amended by section 314 of this Act, in the matter preceding paragraph (1), by inserting “, and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before or after the petition was filed) have been paid” after “completion by the debtor of all payments under the plan”.

**SEC. 326. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.**

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

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

“(2) under subsection (a)—

“(A) of the commencement or continuation of an action or proceeding for—

“(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

“(ii) the establishment or modification of an order for domestic support obligations; or

“(B) the collection of a domestic support obligation from property that is not property of the estate.”;

(2) by inserting after paragraph (4) the following:

“(5) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b));

(3) in paragraph (17), by striking “or” at the end;

(4) in paragraph (18), by striking the period and inserting “; or”; and

(5) by inserting after paragraph (18) the following:

“(19) under subsection (a) with respect to—

“(A) the withholding, suspension, or restriction of drivers’ licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

“(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)); or

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

**SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.**

Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

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

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

(3) in paragraph (15), by striking “governmental unit” and all through the end of the paragraph and inserting a semicolon.

**SEC. 328. CONTINUED LIABILITY OF PROPERTY.**

Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—

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

“(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));”;

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting “of a kind that is specified in section 523(a)(5); or”.

**SEC. 329. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.**

Section 547(c) of title 11, United States Code, is amended by striking paragraph (7) and inserting the following:

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

**SEC. 330. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.**

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by section 328 of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking “(2)(A) subject to subsection (n), any property” and inserting:

“(3) Subject to subsection (n), property listed in this paragraph is—

“(A) any property”;

(ii) in subparagraph (A), by striking “and” at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 and which has not been pledged or promised to any person in connection with any extension of credit.”;

(B) by striking paragraph (1) and inserting:

“(2) Property listed in this paragraph is property that is specified under subsection (d) of this section, unless the State law that is applicable to the debtor under paragraph (3)(A) of this subsection specifically does not so authorize.”;

(C) in the matter preceding paragraph (2)—

(i) by striking “(b)” and inserting “(b)(1)”;  
(ii) by striking “paragraph (2)” both places it appears and inserting “paragraph (3)”;  
(iii) by striking “paragraph (1)” each place it appears and inserting “paragraph (2)”; and

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

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

“(4) For purposes of paragraph (3)(C), the following shall apply:

“(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303, those funds shall be presumed to be exempt from the estate.

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

“(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

“(ii) (I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

“(II) the retirement fund fails to be in substantial compliance with such applicable requirements, the debtor is not materially responsible for that failure.

“(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) by reason of that direct transfer.

“(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) by reason of that distribution.

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

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

“(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.”; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

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

(b) **AUTOMATIC STAY.**—Section 362(b) of title 11, United States Code, as amended by section 326 of this Act, is amended—

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

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

(3) by inserting after paragraph (19) the following:

“(20) under subsection (a), of withholding of income from a debtor’s wages and collection of amounts withheld, pursuant to the debtor’s agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

“(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1)

of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

“(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.”; and

(4) by adding at the end of the flush material following paragraph (20) the following: “Paragraph (20) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (20) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”

(c) **EXCEPTIONS TO DISCHARGE.**—Section 523(a) of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) by striking “or” at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting “; or”;

(3) by adding at the end the following:

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

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)); or

“(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of that title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.”

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

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

**SEC. 331. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.**

(a) Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (7) the following:

“(8) Eighth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.”

(b) Section 523(a)(9) of title 11, United States Code, is amended by inserting “or vessel” after “vehicle”.

**SEC. 332. DEBT LIMIT INCREASE.**

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

“(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.”

**SEC. 333. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.**

Section 101(18)(A) of title 11, United States Code, is amended by striking “the taxable

year preceding the taxable year” and inserting “at least 1 of the 3 calendar years preceding the year”.

**SEC. 334. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.**

(a) **IN GENERAL.**—Section 1225(b) of title 11, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

“(2) The plan shall be confirmed if—

“(A) the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B);

“(B) the amounts under subparagraph (A) equal or exceed the debtor’s projected disposable income for the applicable period; and

“(C) the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.”

(b) **MODIFICATION OF PLAN.**—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

“(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

“(2) A modification of the plan under this section to increase payments based on an increase in the debtor’s disposable income may not require payments to unsecured creditors in any particular month greater than the debtor’s disposable income for that month unless the debtor proposes such a modification.

“(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed unless the debtor proposes such a modification.”

**SEC. 335. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.**

Section 1325(b)(2) of title 11, United States Code, is amended by inserting “(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)” after “received by the debtor”.

**SEC. 336. PROTECTION OF SAVINGS EARMARKED FOR THE POSTSECONDARY EDUCATION OF CHILDREN.**

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “or” at the end;

(2) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following:

“(5) except as otherwise provided under applicable State law, any funds placed in a qualified State tuition program (as described in section 529(b) of the Internal Revenue Code of 1986) at least 180 days before the date of entry of the order for relief;

“(6) any funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) at least 180 days before the date of entry of the order for relief; or”.

**TITLE IV—FINANCIAL INSTRUMENTS**

**SEC. 401. BANKRUPTCY CODE AMENDMENTS.**

(a) **DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.**—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking “means a contract” and inserting “means—

“(A) a contract”;

(ii) by striking “, or any combination thereof or option thereon;” and inserting “, or any other similar agreement;”;

(iii) by adding at the end the following:

“(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

“(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

“(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), or (C); or

“(E) a security agreement or arrangement, or other credit enhancement, related to any agreement, a contract, option, or transaction referred to in subparagraph (A), (B), (C), or (D);”;

(B) by striking paragraph (47) and inserting the following:

“(47) ‘repurchase agreement’ and ‘reverse repurchase agreement’—

“(A) mean—

“(i) an agreement, including related terms, that provides for the transfer of—

“(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers’ acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development); or

“(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers’ acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers’ acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor’s transfer or on demand, against the transfer of funds;

“(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

“(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

“(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

“(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv); and

“(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;”;

(C) by striking paragraph (53B) and inserting the following:

“(53B) ‘swap agreement’—

“(A) means—

“(i) an 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, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or an equity swap, option, future, or forward agreement;

“(V) a debt index or a debt swap, option, future, or forward agreement;

“(VI) a credit spread or a credit swap, option, future, or forward agreement; or

“(VII) a commodity index or a commodity swap, option, future, or forward agreement;

“(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

“(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

“(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

“(iv) an option to enter into an agreement or transaction referred to in this subparagraph; or

“(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

“(B) the definition under subparagraph (A) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.”;

(2) in section 741, by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or an interest in a mortgage

loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(ii) an option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

“(iv) a margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) a combination of the agreements or transactions referred to in this subparagraph;

“(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

“(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) a security agreement or arrangement, or other credit enhancement, related to any agreement or transaction referred to in this subparagraph; and

“(B) does not include a purchase, sale, or repurchase obligation under a participation in, or servicing agreement for, a commercial mortgage loan;”;

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

(B) by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) a combination of the agreements or transactions referred to in this paragraph;

“(H) an option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

“(J) a security agreement or arrangement, or other credit enhancement, related to any agreement or transaction referred to in this paragraph.”;

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

“(22) ‘financial institution’ means—

“(A) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

“(B) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer;”;

(2) by inserting after paragraph (22) the following:

“(22A) ‘financial participant’ means an entity that—

“(A) is a party to a securities contract, commodity contract or forward contract;

“(B) on the date of the filing of the petition, has 1 or more agreements or transactions under section 561(a)(2) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than \$1,000,000,000 in notional or actual principal amount outstanding on any date during the previous 15-month period; or

“(C) has gross mark-to-market positions of not less than \$100,000,000 (aggregated across counterparties) in an agreement or transaction under subparagraph (A) with the debtor or any other entity (other than an affiliate) on any date during the previous 15-month period;”;

(3) by striking paragraph (26) and inserting the following:

“(26) ‘forward contract merchant’ means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761, or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing or in the forward contract trade;”.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

“(38A) the term ‘master netting agreement’—

“(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing; except that

“(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of paragraphs (1) through (5) of section 561(a); and

“(38B) the term ‘master netting agreement participant’ means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;”.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND

MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by section 330 of this Act, is amended—

(A) in paragraph (6), by inserting “, pledged to, and under the control of,” after “held by”;

(B) in paragraph (7), by inserting “, pledged to, and under the control of,” after “held by”;

(C) by striking paragraph (17) and inserting the following:

“(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;”;

(D) in paragraph (19), by striking “or” at the end;

(E) in paragraph (20), by striking the period at the end and inserting “; or”; and

(F) by inserting after paragraph (20) the following:

“(21) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.”.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by section 432(2) of this Act, is amended by adding at the end the following:

“(i) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.”.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g), (as added by section 103 of Public Law 101-311 (104 Stat. 267 et seq.))—

(A) by striking “under a swap agreement”; and

(B) by striking “in connection with a swap agreement” and inserting “under or in connection with any swap agreement”; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

“(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).”.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking “and”;;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.”.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

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

“§555. Contractual right to liquidate, terminate, or accelerate a securities contract”; and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

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

“§556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract”; and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

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

“§559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement”; and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

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

“§560. Contractual right to liquidate, terminate, or accelerate a swap agreement”; and

(2) in the first sentence, by striking “termination of a swap agreement” and inserting “liquidation, termination, or acceleration of a swap agreement”; and

(3) by striking “in connection with any swap agreement” and inserting “in connection with the termination, liquidation, or acceleration of a swap agreement”.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following new section:

“§561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

“(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more)—

“(1) securities contracts, as defined in section 741(7);

“(2) commodity contracts, as defined in section 761(4);

“(3) forward contracts;

“(4) repurchase agreements;

“(5) swap agreements; or

“(6) master netting agreements, shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

“(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

“(2)(A) A party may not exercise a contractual right described in subsection (a) to offset or to net obligations arising under, or in connection with, a commodity contract against obligations arising under, or in connection with, any instrument listed in subsection (a), if the obligations are not mutual.

“(B) If a debtor is a commodity broker subject to subchapter IV of chapter 7, a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments if that party has no positive net equity in the commodity account of the debtor, as calculated under subchapter IV.

“(c) As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.”

(l) MUNICIPAL BANKRUPTCIES.—Section 901 of title 11, United States Code, is amended—

(1) by inserting “, 555, 556” after “553”; and

(2) by inserting “, 559, 560, 561, 562,” after “557”.

(m) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

“(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

“(1) shall not be stayed or otherwise limited by—

“(A) operation of any provision of this title; or

“(B) order of a court in any case under this title;

“(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

“(3) shall not be limited based on the presence or absence of assets of the debtor in the United States.”

(n) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

“**§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

“Notwithstanding any other provision of this title, the exercise of rights by a forward

contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights or affect any provision of this subchapter relating to customer property or distributions.”

(o) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

“**§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of rights or affect any provision of this subchapter relating to customer property or distributions.”

(p) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(21), 555, 556, 559, 560, or 561)” before the period; and

(2) in subsection (b)(1), by striking “362(b)(14),” and inserting “362(b)(17), 362(b)(21), 555, 556, 559, 560.”

(q) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking “financial institutions,” each place such term appears and inserting “financial institution, financial participant”;

(2) in section 546(e), by inserting “financial participant” after “financial institution.”;

(3) in section 548(d)(2)(B), by inserting “financial participant” after “financial institution.”;

(4) in section 555—

(A) by inserting “financial participant” after “financial institution.”; and

(B) by inserting before the period “, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice”; and

(5) in section 556, by inserting “, financial participant” after “commodity broker”.

(r) TECHNICAL AND CONFORMING AMENDMENT.—Section 104 of title 11, United States Code, is amended by adding at the end the following:

“(c) EXCEPTION FOR CERTAIN DEFINED TERMS.—No adjustments shall be made under this section to the dollar amounts set forth in the definition of the term ‘financial participant’ in section 101 (22A).”

(s) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

“555. Contractual right to liquidate, terminate, or accelerate a securities contract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

(B) by striking the items relating to sections 559 and 560 and inserting the following:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

and

(C) by adding after the item relating to section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.”;

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

and

(B) by inserting after the item relating to section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”

#### SEC. 402. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 561 (as added by section 401(b)) the following:

“**§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements**

“If the trustee rejects a swap agreement, securities contract as defined in section 741, forward contract, repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates any such contract or agreement, damages shall be measured as of the earlier of—

“(1) the date of such rejection; or

“(2) the date of such liquidation, termination, or acceleration.”

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by designating the existing text as paragraph (1); and

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

“(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c) of this section or disallowed under subsection (d) or (e) of this section as if such claim had arisen before the date of the filing of the petition.”

#### SEC. 403. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, as amended by section 336 of this Act, is amended—

(1) in subsection (b)—

(A) by striking “or” at the end of paragraph (6); and

(B) by redesignating paragraph (7) as paragraph (8);

(2) by inserting after paragraph (6) the following:

“(7) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by reason of avoidance under section 548(a); or”;

(3) by adding at the end the following new subsection:

“(e) In this section:

“(1) The term ‘asset-backed securitization’ means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer.

“(2) The term ‘eligible asset’ means—

“(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

“(B) cash; and

“(C) securities.

“(3) The term ‘eligible entity’ means—

“(A) an issuer; or

“(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto.

“(4) The term ‘issuer’ means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

“(5) The term ‘transferred’ means, with respect to a debtor, that the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), without regard to—

“(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

“(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

“(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.”.

#### SEC. 404. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 106 of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end the following:

“(g) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor may not, solely because a consumer has not incurred finance charges in connection with an extension of credit—

“(1) refuse to renew or continue to offer the extension of credit to that consumer; or

“(2) charge a fee to that consumer in lieu of a finance charge.”.

#### SEC. 405. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking “dwelling” the first place it appears;

(2) by striking “ownership or” and inserting “ownership.”;

(3) by striking “housing” the first place it appears; and

(4) by striking “but only” and all that follows through “such period,” and inserting “or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot.”.

#### SEC. 406. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking “Notwithstanding section 1915, the parties” and inserting “Subject to subsection (f), the parties”; and

(2) by adding at the end the following:

“(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

“(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor is unable to pay that fee in installments.

“(3) A filing fee referred to in paragraph (2) is—

“(A) a filing fee under subsection (a)(1); or

“(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

“(4) In addition to waiving a fee described in paragraph (3) under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual is unable to pay that fee in installments.”.

#### SEC. 407. APPLICABILITY.

The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act.

### TITLE V—ANCILLARY AND OTHER CROSS-BORDER CASES

#### SEC. 501. AMENDMENT TO ADD CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

#### “CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

“Sec.

“601. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“602. Definitions.

“603. International obligations of the United States.

“604. Commencement of ancillary case.

“605. Authorization to act in a foreign country.

“606. Public policy exception.

“607. Additional assistance.

“608. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

“609. Right of direct access.

“610. Limited jurisdiction.

“611. Commencement of case under section 301 or 303.

“612. Participation of a foreign representative in a case under this title.

“613. Access of foreign creditors to a case under this title.

“614. Notification to foreign creditors concerning a case under this title.

#### “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“615. Application for recognition of a foreign proceeding.

“616. Presumptions concerning recognition.

“617. Order recognizing a foreign proceeding.

“618. Subsequent information.

“619. Relief that may be granted upon petition for recognition of a foreign proceeding.

“620. Effects of recognition of a foreign main proceeding.

“621. Relief that may be granted upon recognition of a foreign proceeding.

“622. Protection of creditors and other interested persons.

“623. Actions to avoid acts detrimental to creditors.

“624. Intervention by a foreign representative.

#### “SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“625. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“627. Forms of cooperation.

#### “SUBCHAPTER V—CONCURRENT PROCEEDINGS

“628. Commencement of a case under this title after recognition of a foreign main proceeding.

“629. Coordination of a case under this title and a foreign proceeding.

“630. Coordination of more than 1 foreign proceeding.

“631. Presumption of insolvency based on recognition of a foreign main proceeding.

“632. Rule of payment in concurrent proceedings.

#### “§ 601. Purpose and scope of application

“(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

“(1) cooperation between—

“(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

“(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

“(2) greater legal certainty for trade and investment;

“(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

“(4) protection and maximization of the value of the debtor’s assets; and

“(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

“(b) This chapter applies if—

“(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 taking place 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 identified by exclusion in subsection 109(b); or

“(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

#### “SUBCHAPTER I—GENERAL PROVISIONS

##### “§ 602. Definitions

“For purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a non-transitory economic activity;

“(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

“(4) ‘foreign main proceeding’ means a foreign proceeding taking place 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, taking place in a country where the debtor has an establishment;

“(6) ‘trustee’ includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 or 13 of this title; and

“(7) ‘within the territorial jurisdiction of the United States’ when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed to be located within that territory, including any property that may properly be seized or garnished by an action in a Federal or State court in the United States.

##### “§ 603. International obligations of the United States

“To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

##### “§ 604. Commencement of ancillary case

“A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

##### “§ 605. Authorization to act in a foreign country

“A trustee or another entity designated by the court, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

##### “§ 606. 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.

##### “§ 607. Additional assistance

“(a) Nothing in this chapter limits the power of the court, upon recognition of a for-

eign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor's property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

##### “§ 608. 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

##### “§ 609. Right of direct access

“(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

“(b) Upon recognition, and subject to section 610, a foreign representative shall have the capacity to sue and be sued.

“(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

“(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

##### “§ 610. Limited jurisdiction

“The sole fact that a foreign representative files a petition under sections 604 and 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

##### “§ 611. Commencement of case under section 301 or 303

“(a) Upon filing a petition for recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

“(c) A case under subsection (a) shall be dismissed unless recognition is granted.

##### “§ 612. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

##### “§ 613. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

##### “§ 614. Notification to foreign creditors concerning a case under this title

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) The notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for their filing;

“(2) indicate whether secured creditors need to file their proofs of claim; and

“(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

#### “SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

##### “§ 615. Application for recognition of a foreign proceeding

“(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

“(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

#### “§ 616. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding, within the meaning of section 101(23) and that the person or body is a foreign representative, within the meaning of section 101(24), the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not the documents have been subjected to legal processing under applicable law.

“(c) In the absence of evidence to the contrary, the debtor’s registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor’s main interests.

#### “§ 617. Order recognizing a foreign proceeding

“(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

“(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602 and is a foreign proceeding within the meaning of section 101(23);

“(2) the person or body applying for recognition is a foreign representative within the meaning of section 101(24); and

“(3) the petition meets the requirements of section 615.

“(b) The foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

#### “§ 618. Subsequent information

“After the petition for recognition of the foreign proceeding is filed, the foreign rep-

resentative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative’s appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

#### “§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding

“(a) Beginning on the date on which a petition for recognition is filed and ending on the date on which the petition is decided upon, the court may, at the request of the foreign representative, if relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor’s assets;

“(2) entrusting the administration or realization of all or part of the debtor’s assets located in the United States to the foreign representative or another person, including an examiner, designated by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation, or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

“(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

#### “§ 620. Effects of recognition of a foreign main proceeding

“(a)(1) Upon recognition of a foreign proceeding that is a foreign main proceeding—

“(A) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

“(B) a transfer, an encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

“(2) Unless the court orders otherwise, the foreign representative may operate the debtor’s business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

“(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

“(c) Subsection (a) does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

“(d) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

#### “§ 621. Relief that may be granted upon recognition of a foreign proceeding

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, if necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor’s assets, rights, obligations, or liabilities to the extent the actions or proceedings have not been stayed under section 620(a);

“(2) staying execution against the debtor’s assets to the extent the execution has not been stayed under section 620(a);

“(3) suspending the right to transfer, encumber, or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 620(a);

“(4) providing for the examination of witnesses, the taking of evidence, or the delivery of information concerning the debtor’s assets, affairs, rights, obligations, or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor’s assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, designated by the court;

“(6) extending relief granted under section 619(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor’s assets located in the United States to the foreign representative or another person, including an examiner, designated by the court, if the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

#### “§ 622. Protection of creditors and other interested persons

“(a) The court may grant relief under section 619 or 621, or may modify or terminate relief under subsection (c), only if the court finds that the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 619 or 621 to conditions that the court considers to be appropriate.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate the relief.

#### “§ 623. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title

to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) In any case in which the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

“§ 624. Intervention by a foreign representative

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a Federal or State court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

“(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

“§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

“(a) In all matters included within section 601, the trustee or other person, including an examiner, designated by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

“(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

“(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any such examiner shall comply with the qualifications requirements imposed on a trustee under section 322(a).

“§ 627. Forms of cooperation

“Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor’s assets and affairs;

“(4) approval or implementation of agreements concerning the coordination of proceedings; and

“(5) coordination of concurrent proceedings regarding the same debtor.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“§ 628. 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 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

“§ 629. Coordination of a case under this title and a foreign proceeding

“In any case in which a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

“(A) any relief granted under section 619 or 621 shall be consistent with the relief granted in the case in the United States; and

“(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

“(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

“(A) any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

“(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

“(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court shall be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

“§ 630. Coordination of more than 1 foreign proceeding

“In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

“(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding shall 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 619 or 621 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.

“§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

“In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a

proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

“§ 632. Rule of payment in concurrent proceedings

“Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

“6. Ancillary and Other Cross-Border Cases ..... 601”.

SEC. 502. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: “, and this chapter, sections 307, 304, 555 through 557, 559, and 560 apply in a case under chapter 6”; and

(2) by adding at the end the following:

“(j) Chapter 6 applies only in a case under such chapter, except that section 605 applies to trustees and to any other entity, including an examiner, designated by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapters 9 and 13 who are authorized to act under section 605.”.

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 of title 11, United States Code, are amended to read as follows:

“(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

“(24) ‘foreign representative’ means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of the foreign proceeding;”.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.”.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking “Nothing in” and inserting “Except with respect to a case under chapter 6 of title 11, nothing in”.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting “6.” after “chapter”.

TITLE VI—MISCELLANEOUS  
SEC. 601. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d) of title 11, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property

under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

“(i) the date that is 120 days after the date of the order for relief; or

“(ii) the date of the entry of an order confirming a plan.

“(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.”

**SEC. 602. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.**

(a) IN GENERAL.—Section 158 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following:

“(d)(1) Any final judgment, decision, order, or decree of a bankruptcy judge entered for a case in accordance with section 157 may be appealed by any party in such case to the appropriate court of appeals if—

“(A) an appeal from such judgment, decision, order, or decree is first filed with the appropriate district court of the United States; and

“(B) the decision on the appeal described under subparagraph (A) is not filed by a district court judge within 30 days after the date such appeal is filed with the district court.

“(2) On the date that an appeal is filed with a court of appeals under paragraph (1), the chief judge for such court of appeals shall issue an order to the clerk for the district court from which the appeal is filed. Such order shall direct the clerk to enter the final judgment, decision, order, or decree of the bankruptcy judge as the final judgment, decision, order, or decree of the district court.”; and

(3) in subsection (e), (as redesignated by paragraph (1) of this section) by striking “subsections (a) and (b)” and inserting “subsections (a), (b), and (d)”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 305(c) of title 11, United States Code, is amended by striking “section 158(d)” and inserting “section 158(e)”.

(2) Section 1334(d) of title 28, United States Code, is amended by striking “section 158(d)” and inserting “section 158(e)”.

(3) Section 1452(b) of title 28, United States Code, is amended by striking “section 158(d)” and inserting “section 158(e)”.

**SEC. 603. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.**

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: “On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.”

**SEC. 604. REPEAL OF SUNSET PROVISION.**

Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

**SEC. 605. CASES ANCILLARY TO FOREIGN PROCEEDINGS.**

Section 304 of title 11, United States Code, as amended by section 410 of this Act, is amended by adding at the end the following:

“(e)(1) In this subsection—

“(A) the term ‘domestic insurance company’ means a domestic insurance company, as that term is used in section 109(b)(2);

“(B) the term ‘foreign insurance company’ means a foreign insurance company, as that term is used in section 109(b)(3);

“(C) the term ‘United States claimant’ means a beneficiary of any deposit referred to in paragraph (2)(A) or any multibeneficiary trust referred to in subparagraph (B) or (C) of paragraph (2);

“(D) the term ‘United States creditor’ means, with respect to a foreign insurance company—

“(i) a United States claimant; or

“(ii) any business entity that operates in the United States and that is a creditor; and

“(E) the term ‘United States policyholder’ means a holder of an insurance policy issued in the United States.

“(2) Notwithstanding subsections (b) and (c), the court may not grant relief under subsection (b) to a foreign insurance company that is not engaged in the business of insurance or reinsurance in the United States with respect to any claim made by a United States creditor against—

“(A) a deposit required by an applicable State insurance law;

“(B) a multibeneficiary trust required by an applicable State insurance law to protect United States policyholders or claimants against a foreign insurance company; or

“(C) a multibeneficiary trust authorized under an applicable State insurance law to allow a domestic insurance company that cedes reinsurance to the debtor to reflect the reinsurance as an asset or deduction from liability in the ceding insurer’s financial statements.”

**SEC. 606. LIMITATION.**

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking “20” and inserting “45”.

**SEC. 607. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.**

Section 546 of title 11, United States Code, as amended by section 401 of this Act, is amended by adding at the end the following:

“(i) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman’s lien for storage, transportation, or other costs incidental to the storage and handling of goods, as provided by an applicable State law that is similar to section 7-209 of the Uniform Commercial Code.”

**SEC. 608. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.**

Section 330(a)(3)(A) of title 11, United States Code, is amended—

(1) by inserting “In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.” after “(3)(A)”;

(2) by inserting “to an examiner, chapter 11 trustee, or professional person” after “awarded”.

**TITLE VII—TECHNICAL CORRECTIONS**

**SEC. 701. ADJUSTMENT OF DOLLAR AMOUNTS.**

Section 104 of title 11, United States Code, is amended by inserting “522(f)(3), 707(b)(5),” after “522(d),” each place it appears.

**SEC. 702. EXTENSION OF TIME.**

Section 108(c)(2) of title 11, United States Code, is amended by striking “922” and all that follows through “or”, and inserting “922, 1201, or”.

**SEC. 703. WHO MAY BE A DEBTOR.**

Section 109(b)(2) of title 11, United States Code, is amended by striking “subsection (c) or (d) of”.

**SEC. 704. PENALTY FOR PERSONS WHO NEGLIGENCE-OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.**

Section 110(j)(3) of title 11, United States Code, is amended by striking “attorney’s” and inserting “attorneys”.

**SEC. 705. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.**

Section 328(a) of title 11, United States Code, is amended by inserting “on a fixed or percentage fee basis,” after “hourly basis,”.

**SEC. 706. SPECIAL TAX PROVISIONS.**

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking “, except” and all that follows through “1986”.

**SEC. 707. EFFECT OF CONVERSION.**

Section 348(f)(2) of title 11, United States Code, is amended by inserting “of the estate” after “property” the first place it appears.

**SEC. 708. AUTOMATIC STAY.**

Section 362(b) of title 11, United States Code, as amended by section 401 of this Act, is amended—

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

(2) in paragraph (21), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (21) the following:

“(22) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

“(23) under subsection (a)(3) of this section, of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement and the debtor has not paid rent to the lessor under the terms of the lease agreement or applicable State law after the commencement and during the course of the case;

“(24) under subsection (a)(3) of this section, of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated pursuant to the lease agreement or applicable State law;

“(25) under subsection (a)(3), of any eviction, unlawful detainer action, or similar proceeding, if the debtor has previously filed within the preceding year and failed to pay post-petition rent during the course of that case; or

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

**SEC. 709. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

Section 503(b)(4) of title 11, United States Code, is amended by inserting “subparagraph (A), (B), (C), (D), or (E) of” before “paragraph (3)”.

**SEC. 710. PRIORITIES.**

Section 507(a) of title 11, United States Code, as amended by section 323 of this Act, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting “unsecured” after “allowed”.

**SEC. 711. EXEMPTIONS.**

Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking “includes a liability designated as” and inserting “is for a liability

that is designated as, and is actually in the nature of,"; and

(B) by striking " , unless" and all that follows through "support"; and

(2) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

#### SEC. 712. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section 315 of this Act, is amended—

(1) in subsection (a)(3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

(2) as amended by section 304(e) of Public Law 103-394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14A) of subsection (a);

(3) in subsection (a)(9), by inserting " , watercraft, or aircraft" after "motor vehicle";

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)";

(5) in subsection (a)(17)—

(A) by striking "by a court" and inserting "on a prisoner by any court";

(B) by striking "section 1915 (b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(C) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears; and

(6) in subsection (e), by striking "a insured" and inserting "an insured".

#### SEC. 713. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1) of this title, or that".

#### SEC. 714. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

#### SEC. 715. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

#### SEC. 716. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (h)"; and

(2) by adding at the end the following:  
 "(h) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider."

#### SEC. 717. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

#### SEC. 718. TECHNICAL AMENDMENT.

Section 552(b)(1) of title 11, United States Code, is amended by striking "product" each place it appears and inserting "products".

#### SEC. 719. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

#### SEC. 720. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section 401 of this Act, is amended by inserting "1123(d)," after "1123(b),".

#### SEC. 721. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:  
 "(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

"(1) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute."

#### SEC. 722. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

#### SEC. 723. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

#### SEC. 724. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

#### SEC. 725. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "or October 1, 2002, whichever occurs first"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking "or October 1, 2002, whichever occurs first"; and

(ii) in the matter following subclause (II), by striking "October 1, 2003, or"; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking "before October 1, 2003, or"; and

(ii) by striking " , whichever occurs first".

#### SEC. 726. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

#### SEC. 727. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "bankruptcy"; and

(B) by striking the period at the end and inserting " ; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "document"; and

(B) by striking "this title" and inserting "title 11".

#### SEC. 728. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

##### "§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract that—

"(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

"(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of the default; or

"(II) the expiration of such 60-day period; and

"(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

"(2) The equipment described in this paragraph—

"(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement

of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

“(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

“(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.

“(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term ‘rolling stock equipment’ includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.”

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

**“§ 1110. Aircraft equipment and vessels**

“(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

“(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

“(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

“(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract that occurs—

“(i) before the date of the order is cured before the expiration of such 60-day period;

“(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

“(I) the date that is 30 days after the date of the default; or

“(II) the expiration of such 60-day period; and

“(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

“(3) The equipment described in this paragraph—

“(A) is—

“(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

“(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

“(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

“(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

“(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

“(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

“(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

“(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

“(1) the term ‘lease’ includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

“(2) the term ‘security interest’ means a purchase-money equipment security interest.”

**SEC. 729. CURBING ABUSIVE FILINGS.**

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

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

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

(3) by adding at the end the following:

“(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

“(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

“(B) multiple bankruptcy filings affecting the real property.

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

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 708 of this Act, is amended—

(1) in paragraph (25), by striking “or” at the end;

(2) in paragraph (26), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (26) the following:

“(27) under subsection (a) of this section, of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that, the debtor in a subsequent case of the debtor, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

“(28) under subsection (a) of this section, of any act to enforce any lien against or security interest in real property—

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

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

**SEC. 730. STUDY OF OPERATION OF TITLE 11 OF THE 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 Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

**SEC. 731. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.**

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended—

(1) by striking “only” and all that follows through the end of the subsection and inserting “only—

“(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 corporation or trust; and

“(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.”.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

“(14) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.”.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 403 of this Act, is amended by adding at the end the following:

“(e) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.”.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

**SEC. 732. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 946. A bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; to the Committee on Energy and Natural Resources.

**FDR NATIONAL HISTORIC SITE AND PRESIDENTIAL LIBRARY VISITOR CENTER CONSTRUCTION LEGISLATION**

Mr. MOYNIHAN. Mr. President, I rise with my colleague and fellow New Yorker, Senator SCHUMER, to introduce this bill to transfer administrative jurisdiction of less than an acre of land at the Home of Franklin Delano Roosevelt National Historic Site from the National Park Service to the National Archives and Records Administration. This legislation would remove the last

remaining obstacle to the construction of the National Archives' planned FDR Presidential Library Visitor Center and requires no Federal funds.

For the past several years, the National Archives has worked closely with the National Park Service, the New York State Historic Preservation Office, the Franklin and Eleanor Roosevelt Institute, and the General Services Administration, to determine the appropriate site for a visitor center. In order to serve the greatest number of visitors, the optimum location was found to be property currently controlled by the National Park Service. Since the National Archives will administer the visitor center, administrative jurisdiction of the property must be transferred from the National Park Service, which the National Park Service supports.

To date, \$8,200,000 in Federal funds have been appropriated for this project and the Franklin and Eleanor Roosevelt Institute has contributed an additional \$3,400,000. Design work is scheduled to be completed in September of 1999, and construction could begin after jurisdiction is transferred.

Last year, the House passed H.R. 4829 to accomplish this same goal. Unfortunately, time expired on the 106th Congress before we could take it up in the Senate. This year, Congressman JOHN E. SWEENEY has reintroduced the bill, now H.R. 1104, which has a strong chance of passing. We would be most fortunate, indeed, if the Senate would agree to our noncontroversial bill.

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. 946

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

**SECTION 1. VISITOR CENTER FOR HOME OF FRANKLIN D. ROOSEVELT NATIONAL HISTORIC SITE.**

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—The Secretary of the Interior may transfer to the Archivist of the United States administrative jurisdiction over land located in the Home of Franklin D. Roosevelt National Historic Site in Hyde Park, New York.

(b) VISITOR CENTER.—On the land transferred under subsection (a), the Archivist shall construct a visitor center facility to serve the Home of Franklin D. Roosevelt National Historic Site and the Franklin D. Roosevelt Presidential Library.

(c) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF THE SITE.—Any transfer under subsection (a) shall be subject to an agreement between the Secretary and the Archivist that includes provisions for the protection of the Home of Franklin D. Roosevelt National Historic Site and for the joint use of the visitor center facility by the Secretary and the Archivist.

(2) DISCONTINUANCE OF USE BY THE ARCHIVIST.—If the Archivist determines to discontinue use of land transferred under sub-

section (a), the Archivist shall retransfer administrative jurisdiction over the land to the Secretary.

(d) LAND DESCRIPTION.—The land referred to in subsection (a) shall consist of not more than 1 acre of land, as agreed to by the Secretary and the Archivist and more particularly described in the agreement under subsection (c)(1).

By Mr. HOLLINGS (for himself and Mr. MCCAIN):

S. 947. A bill to amend federal law regarding the tolling of the Interstate Highway System; to the Committee on Environment and Public Works.

**INTERSTATE TOLLS RELIEF ACT OF 1999**

Mr. HOLLINGS. Mr. President, I rise to bring to your attention an issue of great national concern. We all remember the great debate that this chamber had last year during reauthorization of the federal highway bill, TEA-21. We all negotiated to get more funds for our states because we know that more investment in our highways means better, safer, and more efficient transportation for those who rely on roads for making deliveries, going to work or school, or just doing the grocery shopping. Transportation is the lynchpin for economic development, and those states that have good, efficient transportation systems attract business development, ultimately raising standards of living. However, I think that we may have gone too far in authorizing states additional means to raise revenue for highway improvements. These means to raise revenue are not productive and hurt our system of transportation.

Specifically, I am concerned that states have too much flexibility to establish tolls on our Interstate highway system. For many states, the large increases in TEA-21 funding have satisfied the need to invest in infrastructure. Other states have found that they need to raise more money, and so they have raised their state fuel taxes or taken other actions to raise the needed revenue. These increases may be difficult to implement politically, because frankly most people don't support any tax increase. However, I believe that highway tolls are a non-productive and overly intrusive means of raising revenue causing more harm to commerce than can be justified.

Congress, mistakenly in my opinion, increased the authority of states to put tolls on their Interstate highways in TEA-21. I am introducing the Interstate Tolls Relief Act of 1999 to restrict Interstate toll authority. The debate over highway tolls goes back to the genesis of our Republic, and contributed to our movement away from the Articles of Confederation to a more uniform system of governance under the U.S. Constitution. Toll roads were the bane of commerce, in the early years of the Republic, as each state would attempt to toll the interstate

traveling public to finance state public improvements. Ultimately, frustration with delay and uneven costs helped contribute to the adoption of Commerce Clause powers to help facilitate interstate and foreign trade. Those same concerns hold true today, and I think that we in Congress must take a national perspective and promote interstate commerce.

I think that if one were to ask the citizens of the United States about tolls, they would ultimately conclude that Interstate tolls would reduce the efficiency of our Interstate highways, increase shipping costs, and make interstate travel more expensive and less convenient. Not to mention the safety problems associated with erecting toll booths and operating them to collect revenues.

Now, I recognize that tolls under certain circumstances may be a good idea, and my bill does not prevent states from tolling non-Interstate highways. My bill also does not affect tolls on highways where they are already in use, and states will continue to be able to rely on existing tolls for revenues. Furthermore, my bill recognizes that when funds must be found for a major Interstate bridge or tunnel project, states may have no other option but to use tolls to finance the project. They may continue to do so under my bill. I believe this is consistent with the original intent of authority granted for Interstate tolls. What my bill does is to prevent the proliferation of Interstate tolls, and restrict tolling authority for major bridges and tunnels.

Mr. President, this bill is essential if we are to continue to have an Interstate Highway System that is safe and facilitates the efficient movement of Interstate commerce and personal travel. I urge the support of my colleagues.

I ask unanimous consent that the full 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. 947

*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 "Interstate Tolls Relief Act of 1999".

**SEC. 2. INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM REPEALED.**

Section 1215(b) of the Transportation Equity Act for the 21st Century (112 Stat. 212-214) is repealed.

**SEC. 3. TOLLS ON BRIDGES AND TUNNELS.**

Section 129(a)(1)(C) of title 23, United States Code, is amended by striking "toll-free bridge or tunnel," and inserting "toll-free major bridge or tunnel. For purposes of this section, a 'major bridge' is one that has a deck area which exceeds 125,000 square feet."

**SEC. 4. LIMITATION ON USE OF TOLL REVENUES.**

Section 129(a)(3) of title 23, United States Code, is amended by—

(1) striking "first" in the first sentence and inserting "only"; and

(2) striking "If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title."

ADDITIONAL COSPONSORS

S. 51

At the request of Mr. BIDEN, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Nebraska (Mr. KERREY), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 296

At the request of Mr. FRIST, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 391

At the request of Mr. KERREY, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Utah (Mr. BENNETT), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 434

At the request of Mr. BREAUX, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 443

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 443, a bill to regulate the sale of firearms at gun shows.

S. 514

At the request of Mr. COCHRAN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 534

At the request of Mr. TORRICELLI, the name of the Senator from Massachu-

setts (Mr. KENNEDY) was added as a cosponsor of S. 534, a bill to expand the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and nonpowder firearms.

S. 595

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to establish a graduated response to shrinking domestic oil and gas production and surging foreign oil imports, and for other purposes.

S. 625

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 625, a bill to amend title 11, United States Code, and for other purposes.

S. 632

At the request of Mr. DEWINE, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Oregon (Mr. WYDEN), the Senator from Georgia (Mr. COVERDELL), the Senator from Alabama (Mr. SESSIONS), and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 661

At the request of Mr. ABRAHAM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 661, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 663

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 663, a bill to impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

S. 678

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 678, a bill to establish certain safeguards for the protection of purchasers in the sale of motor vehicles that are salvage or have been damaged, to require certain safeguards concerning the handling of salvage and nonrebuildable vehicles, to support the flow of important vehicle information to the National Motor Vehicle Title Information System, and for other purposes.

S. 692

At the request of Mr. KYL, the names of the Senator from Ohio (Mr. DEWINE),