United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

Vol. 146 WASHINGTON, MONDAY, FEBRUARY 7, 2000 No. 9

# Senate

The Senate met at 12:01 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we begin this new week with a renewed commitment to You. The words of Mother Teresa of Calcutta stimulate greater depth in our prayer: ''Here I am Lord, body, heart, and soul. Grant that with Your love I may be big enough to reach the world and small enough to be at one with You.''

We echo this sentiment, Father. As we begin this new week, astound us again with the limitless resources You offer us to do Your work. Remind us that Your power is released for leadership that follows Your priorities of righteousness, justice, and mercy. May our constant question be: ''Lord, what do You want us to do?'' Keep us humble with the conviction that we could not breathe a breath, think a thought, write with clarity, nor speak with persuasion without Your grace and gifts. So we move into this new week with deeper dependence on You and greater dedication to give You the glory for all that we are and have and are able to do. You are our Lord and our Saviour. Jehovah, our God. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable ARLEN SPECTER, a Senator from the State of Pennsylvania, led the Pledge of Allegiance, as follows:

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

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the distinguished President pro tempore.

## SCHEDULE

Mr. SPECTER. On behalf of our distinguished majority leader, Mr. President, I have been asked to make the following announcement.

Today, the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will begin consideration of S. 1052, the Mariana Islands legislation. As previously announced, there will be no votes during today's session of the Senate. Therefore, any votes ordered on the Mariana Islands bill will be scheduled to occur on Tuesday. Also on Tuesday, the Senate is expected to begin consideration of the nuclear waste bill. It is hoped that action on that legislation can be completed by the end of the week. I thank my colleagues for their attention.

## ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I now ask unanimous consent that I may be permitted to speak in morning business next and following that, my distinguished colleague from Iowa, the senior Senator, Mr. GRASSLEY, may be permitted to speak in morning business for up to 8 minutes.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

(The remarks of Mr. SPECTER pertaining to the introduction of S. Res. 253 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The distinguished Senator from Iowa is recognized.

## PERMANENT NORMAL TRADING RELATIONS WITH CHINA

Mr. GRASSLEY. Mr. President, I want to spend a few minutes talking about two very important issues, one of which will come before the Senate later on this year, and that is the trade agreement with China which has just been negotiated. We call that permanent normal trading relations. The other subject is the WTO, which is an ongoing situation on which we probably will not take any action—at least negative action—this year, but it is something we always have to consider because every day and every hour there are certain decisions and discussions going on at the World Trade Organization that affect the U.S. economy.

On China and the permanent trade relations vote we are going to have, it is very important that we do this right and do it soon but not do it before we have all the information we need. It is also important to get China into the World Trade Organization.

We do not vote on China going into the World Trade Organization as a Senate, but it seems to me it is very necessary that we establish China with permanent normal trading relations with the United States in order to set the stage for China to be in the WTO.

This is the first time China has agreed to submit itself to international trade disciplines. That, in and of itself, is a very historic and important development. Clearly, China acts in its own national interest and, of course, the United States should act in its own national interest. That is why I say it is most important to our national interest to agree to rules by which we can conduct more open commerce with China. Common sense dictates that it is a win-win situation for the United States since we have few restrictions on imports of China's products into the United States. Basically, it is a no-brainer, as far as I am concerned, to accept their lowering barriers to our exports to that 1-billion-people Nation.

As far as the issue of human rights and national security—and they always come up when we discuss this issue with China—I believe the United States

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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is big enough, the United States is strong enough, we are sophisticated enough, and we are smart enough to serve more than one vital national interest at the same time.

In other words, we can be concerned about human rights, we obviously have to be concerned about our national security because no other nation will be, but we can also be concerned about our commerce with other countries, particularly the biggest country in the world, a country that has reduced, through this agreement, barriers for our goods to go to their country; in other words, setting the stage for a more level playing field because we already let a lot of Chinese goods into this country. There are very few restrictions.

We can take our commerce into mind, we can take human rights and national security into mind, and we do not have to compromise. We can and must have a national security policy that protects our vital security interests. When there is a breakdown that threatens our security, we must and will fix it. We can and must speak out for the oppressed who cannot speak for themselves, and we can and must advance our interests in open markets and trade liberalization.

We can and must do all these things at the same time. We can do this because trade, in and of itself, has so many different dimensions. Through trade, we export more than goods. We export more than manufactured products and services. When we have people-to-people relations that come about through commerce, we export part of our values, part of what makes America great: our American values. We also export, it seems, part of our society. That is why we must engage China commercially.

While I would like to see the Senate vote to approve permanent trading relations for China as soon as possible, the timing of this vote is not entirely in the Senate's hands.

First, China has to complete its remaining bilateral negotiations, especially with the European Union. The European Union may conclude a bilateral deal with China later this month. But some tough issues still remain between those two giants. So it is not clear when these bilateral talks will end.

If China finishes its negotiations with the European Union, China still has to conclude negotiations with 10 other trading partners, as well as the Association of Southeast Asian Nations.

Second, we have to complete work on the protocols that provide the underpinnings for the United States-China agreement that was signed last November and which is the basis for permanent normal trading relations between the United States and China. Several challenging protocol issues remain to be resolved.

In my view, we can only have the permanent normal trading relations vote after all these steps in the process are completed. Senators, including this Senator, of course, will want to carefully review—in fact we have the responsibility to make sure we carefully review—the results of the protocol working party, which may be held in March, and carefully look at all the details before we schedule the permanent normal trading relations vote.

As far as the Senate action on normal trading relations is concerned, I expect that every aspect of the agreement be transparent. That means everything besides the protocols—meaning the written protocols, including side letters, oral or even wink-of-the-eye understandings—must be put on the table before the Senate so that each of the 100 Senators are aware of them. That is what I mean when I say transparency.

As Senators, we cannot make the same mistake we made with the Canadian Free Trade Agreement, of being oblivious to the side letter, the agreement contents of which have been unfair to our wheat farmers ever since. Senators never knew about that until about 5 or 6 years after the Canadian Free Trade Agreement was voted on by the Senate. That is why, when it comes to normal trading relations with China—and it is very important we approve that agreement—everything has to be on the table.

On the issue of the World Trade Organization, the most shocking thing that happened in Seattle—apart from the riots and the mindless destruction—was that there was no consensus to move forward. No agenda was agreed to. This lack of consensus is especially shocking when you consider how much trade has helped bring unprecedented prosperity not only to the United States but around the world.

In 1947, when this all started with the first round of multilateral trade negotiations—that was called the Geneva Round—the total world value of trade was only $50 billion. Today, it is $7 trillion. It is hard to think of a moment in history when such prosperity has been generated in such a short period of time.

But despite this huge increase in our collective wealth, the world's trade ministers in Seattle could not reach agreement over how to keep this great economic engine going and create even more prosperity that will naturally result not just to the United States but to everybody in the world through freer trade. It does not take a rocket scientist to understand how much greater our national wealth is because of freer trade. Common sense dictates that we should continue down this path.

The mandated negotiations on agriculture and services, the so-called building agenda, are now underway in Geneva. We may even have a special agricultural negotiation process to continue the agricultural portions of the talks. But I do not think we will see any quick agreement on the items that were left on the table in Seattle or even on the question of whether to restart the negotiations on drafting a ministerial declaration.

Instead, I think we will see, in Geneva, a period of quiet consultation and consensus building. Considering the disaster that took place in Seattle, maybe it is easy to conclude that we do need a period of quiet consultation, and particularly consensus building, because nothing happens in the WTO except by consensus. So if everybody worries about America's interests being compromised at the WTO, just remember, it is done by consensus. If the United States does not agree to it, it will not get done.

Seattle, of course, was a huge shock to the World Trade Organization and the process. We must try to restore mutual confidence among all the parties. The negotiators will need some time, perhaps even a few months, to refine their positions after the start of consultations.

In summary, I see the next few weeks and months in Geneva as a period where we try to restore faith in the World Trade Organization and in each other and try to rebuild the groundwork for the process of establishing a consensus on trade. Progress may be incremental, but I believe we can achieve it.

When it comes right down to it, rebuilding this confidence is not just a job for the WTO or just for our negotiators; it is a challenge we will have to address in the Senate, particularly in the Finance Committee and in my trade subcommittee.

How can we get there? I believe there is one way. We must make a moral case for free trade. We must do a better job of making the case that free trade has helped us keep the peace, that free trade has brought freedom and prosperity to millions, that it has helped families and nations attain new levels of economic progress. I believe it is up to Congress to help make the moral case for free trade. The future of our international trading system may depend upon how well we do it. I intend to address this topic of the moral case for free trade many times this year. It may be one of the most important things we do this year in the Senate.

Mr. President, I notice there are no other Members who have come to speak, so I ask unanimous consent to continue on my time in morning business to address another issue. I ask unanimous consent for 15 minutes at the most.

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

## THE ADMINISTRATION'S FARM ASSISTANCE PROPOSAL

Mr. GRASSLEY. Mr. President, I come to the floor this afternoon to discuss the recent farmer assistance package outlined in the President's budget proposal. It is often the case that these proposals are complicated and difficult

to explain. But this proposal can actually be explained with one word. That word is ''awful.'' The administration's proposal is simply an awful idea.

I am not one to usually criticize anybody who brings ideas to the table that in any way will assist American farmers, but in this instance I believe I must call it what it really is—an awful proposal. In fact, I am embarrassed by the administration's proposals. I can think of all the Democratic Senators who have been on this floor over the last year—the last 12 months—who have chastised Republicans for not doing enough to help farmers, and doing it in the right way, being embarrassed by the paltry sum of money the President has included and, more importantly, the complicated formula by which they arrive at this assistance.

Just recently, we had the Vice President in Iowa stumping for political support in the famous Iowa caucuses. He told my fellow farmers he supports a ''sound, sensible farm policy.'' Those are his words. If this is what the administration means by ''sensible,'' they should have saved the effort put into this meaningless gesture and left it to individuals who actually know what is going on in rural Iowa and rural America.

While our Nation has enjoyed one of the longest periods of economic growth in our history, the agricultural industry has not fared as well in recent years. Just last year, prices of all kinds of livestock and grain commodities were at their lowest levels since the 1970s, and the outlook for next year is mixed at best. According to the Food and Agricultural Policy Research Institute located at Iowa State University, prices for corn are expected to hover around $2 a bushel this year and soybean prices will average near $4.50 a bushel. Prices have improved somewhat from last year but not significantly, and obviously it is still, at these prices, a losing proposition; in other words, a nonprofitable situation for farmers.

Last year, we in the Congress provided $8.7 billion in economic relief and disaster payments, simply keeping our promise we made to the farmers of America under the 1996 farm program of having an adequate safety net for farmers. We were just keeping our promise with that $8.7 billion. That was divided into three or four different parts. The largest part was the Market Loss Assistance Program payments, and these alone were $5.5 billion.

The administration's proposal is for $600 million compared to that $5.5 billion. It obviously believes that payments to farmers under the supplemental income assistance program will satisfy rural America's needs in this year of continuing low prices. The proposal definitely shows me and should show every farmer that the administration does not really care what happens to the family farmer. I could speak for hours about its shortcomings, but let me try to boil it down to three major points. Democratic Senators, speaking on the floor of this body last week, condemned this same proposal. I say this so people won't consider this a partisan shot. I associate myself with the remarks of some of those Senators who considered this to be a paltry and complicated approach to helping farmers and the Congress keep its promise to the American farmers made under the 1996 bill, that we would maintain a safety net for our farmers.

On the administration's approach, first, it attempts to establish a countercyclical program. The proposal seemingly is based on a system that pays out when the per acre national gross revenue for a crop falls below a set percentage of the 5-year average of the crop's per acre national gross revenue. The significant shortcoming of the administration proposal is that a program based on national revenue will not capture all regional disasters.

As an example from my own State of Iowa, everybody remembers the 500-year flood of 1993. It was a disastrous year for the vast majority of my State. Experts described this 500-year flood as something that is never going to occur again. But production throughout the rest of the Nation during the time that it was ruined in Iowa was strong enough that, under the President's proposal, no payment would have been made to Iowans in need of assistance. Iowans would have been left with absolutely no assistance in the midst of one of the worst natural disasters in decades.

I also draw awareness to the administration's belief that this grand plan assists small- and medium-sized producers. It does harm to these classes of farmers who, particularly, the other side of the aisle thinks we ought to have so much concern for—and we ought to have. The fact that their administration doesn't give concern to the small- or medium-sized farmer in their plan ought to be an embarrassment to my Democrat colleagues.

Well, if the payment was actually triggered and the farmer wasn't drawing more than a $30,000 Agricultural Market Transition payment, the individual would be subject to the $30,000 combined payment cap. This means that the sum of regular AMTA payments plus the payments under the supplemental income assistance program could not exceed $30,000. In my opinion, this program actually hurts the small farmer and mortally wounds the medium-sized farmer. If we want to guarantee the failure of the medium-sized farmer in the Nation, the farmer who is big enough that he doesn't have time to have nonfarm income but not big enough to weather all the natural disasters that one can have or 3 years of low prices, the President's program is the best way to accomplish the failure of the medium-sized farmer in our Nation.

It is simple math that brings me to this point. A farmer with a corn base of 600 acres would receive an AMTA payment of approximately $19,800 this year. But if the market crashed and he qualified for the maximum amount of assistance under the administration's proposal, he would only receive an additional $10,200. Regardless of how much money a farmer has lost, the most he could hope to receive is $10,200.

In comparison, the same farmer would have received $19,000 in economic assistance last year due to the Market Loss Assistance payment Congress voted late last year. The administration's approach is $9,600 less for that farmer than he could have received under Congress' approach last year. If we were to revisit historic lows this summer, which could trigger the SIAP-type payment that the President is proposing, the small- and medium-sized producers could not receive more than that $30,000 cap. Due to this cap, the administration's approach ultimately limits potential assistance to small- and medium-sized producers.

Some people might think I am comparing apples and oranges when I talk about the two packages, but in the end, the important factor is how much aid are we willing to provide to the farmer. The administration has said that assistance wouldn't be paid to the largest producers. But at the end of the day, it is not just the larger growers who will be left out in the cold, it is going to be pretty darn cold for everyone in the middle and chilly for the smaller producers as well.

This proposal reminds me of what a number of Iowa pork producers called the ''4–H'' payments. Remember SHOP 1 and SHOP 2 payments to the pork producers last year? Those payments didn't amount to much either. The administration billed that as a significant measure to help pork producers facing abysmal prices, a 60-year low in hog prices last year. Yet today the number of pork producers has dropped by 3,000, since we experienced these historic lows.

Ultimately, the largest producers will still have $40,000 due to the AMTA cap, and the smaller guys will have a $30,000 cap, a $10,000 bonus to the larger farmer the President says he does not want to help, compared to what the small- and medium-sized farmer gets. Does it really matter what the assistance is called? Was that the administration's goal, of hurting the smaller and medium-sized farmers?

My final point is this: Who is the administration really then trying to help? It is true that farmers with 450 acres or less in corn base could possibly double their AMTA payment. That is the same approach Congress used last year under the administration's proposal. In fact, this is probably a great deal for all those producers with 100 acres or less. But the fact is that a person who is farming 450 acres or less is probably, to make ends meet, also engaged in some occupation other than farming.

I am not saying that most farmers don't have jobs off the farm. In today's

economy, more and more farmers are taking jobs off the farm just to help pay the bills. But as I see it, the medium-sized producer, the producers with 500 to 1,000 acres, are almost entirely dependent upon the profitability of their crops. If they don't receive much-needed assistance, they are probably going to have a hard time staying on the farm, and the administration's proposal does almost nothing to help these individuals.

Now, as I indicated earlier, this is by no means a complete list of all the problems with the administration's approach, but these are a few of the issues that I expect Congress will have to consider. The fact is that if the administration really wants to help farmers, it will immediately announce it will block any efforts to waive the Clean Air Act's oxygenated requirements by the Environmental Protection Agency. If the President would do just this, ethanol can replace MTBE, which is poisoning the ground water now, and it would increase farm income by $1 billion per year—it would do it from the marketplace, not from the Federal Treasury—and create 13,000 new jobs in America in the process.

The Senate may not be able to unilaterally agree upon exactly what should be done to assist family farmers this year, but I think we can probably agree that the administration's proposal is off base and, most frankly, out of touch with real America. It does not accomplish the goals that they want to accomplish of saving the small and medium-sized farmers and not helping the well-off farmer.

So I look forward to working with my constituents, various agricultural groups, commodity groups, and my colleagues in Congress to give family farmers the economic security that they deserve.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I thank my colleague from Wyoming for his graciousness. I will take 3 minutes at the most. I appreciate him giving me some Republican time for this.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 3 minutes.

## THE CAPITOL HILL POLICE

Mr. WELLSTONE. Mr. President, I have made a commitment that I would come to the floor every day to speak about the Capitol Hill police but also about the public. Again, I want to repeat what I have said the last couple of days. As did many of my colleagues, I went to the service for officers Chestnut and Gibson. It was an unbelievably horrible and painful time—first of all, for their families. I do believe, at that time and since then, we made a commitment for our police officers, and for that matter for the public, that we would do everything we possibly could—albeit nothing is 100-percent effective—to make sure such a tragedy would never happen again.

I have come to the floor several times to point out that at too many posts, or at least at some times at some of our posts, we only have one officer. When you have lots of people coming in and you have one officer, if, God forbid, you have somebody who is deranged, that officer is in real peril and so is the public.

I know we have made the commitment over and over again to have two officers at every post. I am not pretending to be the expert as to all the budgets, where the money has been spent, but I know this: We can do better by the Capitol Hill police officers, and we should. We can do better by the public. Whatever it takes, we need to honor our commitment and we need to make sure we have the necessary resources so we have two officers at these posts.

There are many other issues. I am not going to get involved in these other issues because I am not the expert. I know what I have observed. I know the police officers with whom I have talked. I know the commitment we made to these police officers. So I am going to continue to speak about this a couple of minutes every day. I am hoping the appropriators and others will come through.

I thank my colleague from Wyoming. I think all of us are in agreement on this; I believe this is not a Democrat or Republican debate at all.

So I thank my colleague from Wyoming and yield the floor.

The PRESIDING OFFICER (Mr. KYL). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I believe this next hour is allocated to the majority party, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. Mr. President, we are pleased to have a little time to talk about some of the issues that will come up, some of the issues that are on the agenda and some that are not. I appreciate the comments of my friend from Minnesota. Certainly that is an issue we are all interested in, and I appreciate the effort he is making on that.

Mr. WELLSTONE. I thank my colleague.

## THIS YEAR'S AGENDA

Mr. THOMAS. Mr. President, in this coming session—which is going to be relatively short, as it always is on election years, but particularly this year—we have to focus if we intend to accomplish things. I hope we do. As is often the case in election years, there are times when people are more interested in creating the issue than they are in resolving the issue. I think we will see a considerable amount of that, of course, going out towards the Presidential election and trying to find the issues the party will be for—which is all part of the system. But I am hopeful we can concentrate and focus on the issues that we think are most important.

We have had some experience, unfortunately in the last several weeks, and certainly even last year, that quite often the minority chose to bring up issues they knew would not be resolved but brought them up continuously to diffuse the issues on which we have been working. In this body, that is easy. One person very readily can hold up things, unless we can get 60 votes to do something different.

In any event, I am hopeful that will not be the case. We are going to focus on some things that we have decided upon. This will be more refined as time goes on, but certainly education will be one. The issue of education, of course, is not whether we try to improve it, but how we fund those improvements. I do not believe that we should have one-size-fits-all regulations that come from some bureaucracy in Washington. We should distribute our education funding in a manner that allows the States and local school boards to make those decisions.

Certainly the needs in Pinedale, WY, are going to be different than in Philadelphia. That is as it should be. We need to allow for this type of flexibility.

Another area that we will be focusing on is health care. We did some work last year on strengthening Medicare, doing something particularly in rural areas so outpatient care can be better financed. We intend to continue to do that, at the same time doing whatever is necessary to ensure Medicare continues to provide the benefits it is designed to provide.

Certainly one of the issues that will be difficult and controversial, yet I think most people want to do something about, is providing the opportunity for everyone to have pharmaceuticals available if they cannot afford them; hopefully to protect the programs we have now, to encourage and in fact assist people who now get their own supplementals, but be able to help those people who are not able to do that.

Social Security will continue to be an area of great concern. We have made some progress in not spending Social Security money in the operational budget. However, that is not all that is necessary. If the young people who will start making Social Security payments at their first job can expect some benefits 30, 40, 50 years from now, then things will have to be done differently. Obviously, we have alternatives. We can increase taxes—but not many people are for that. Social Security payments are one of the highest taxes

many people pay in the United States. We could reduce benefits—again, there is not much support for that. Or we could, indeed, increase the return on the money that is in a trust. We think that is an excellent idea, to provide individual accounts so at least a portion of the money that is in the fund would belong to you and belong to me. I suspect people over 50 or so would not see any difference, but younger people would have an account that would be theirs and, indeed, could be invested in equities for a much better return.

So, along with reducing the debt, those are some of the things, with which we will be involved.

## GUN CONTROL

Mr. THOMAS. Mr. President, unfortunately, one of the issues that continues to show up and seems to have nine lives—or more than nine, is the matter of gun control. We have seen it every session a number of times. I am sure we will see it again. I think it is something about which we ought to talk. I believe most people have come to the conclusion that the passage of additional laws is not going to make a great deal of difference in the behavior of criminals. Sadly, law abiding citizens who are exercising their constitutional rights are the ones who will be impacted by additional gun control laws. But it would not affect those who do not intend to abide by the law. Therefore, the idea of additional laws certainly is questionable.

In my mind, it is not the direction we ought to take. Fortunately, I think the majority of people in this country also believed the passage of new laws is not the solution. We need to enforce the numerous gun laws that are on the books.

Thankfully for our country, the President has not been able to carry out his continuing agenda of wanting more and more gun laws. But, regrettably, he has not been able to make enforcement more effective. More laws are not going to keep those who are willing to break the law from doing things illegally. Stronger enforcement of existing laws is the answer. The administration, however, has not presented such a program. Certainly, we need to move in that direction.

When tragedies occur, as they did in Colorado and a number of other places, of course all of us wonder what we can do to ensure that these tragedies do not happen again. The first impulse in a legislative body is to pass more laws.

Unfortunately, that is often the most political thing to do. But the fact of the matter is, in almost every instance numerous gun laws were broken when these terrible acts were committed. One might say, what advantage is there in passing more? Indeed, what we ought to be doing is talking about enforcement.

As many of you know, the administration has been busy developing new gun control initiatives and additional laws—everything from threatening gun manufacturers with Federal lawsuits to mandatory licensing of new handgun purchases. Currently, there are 26 municipalities that have filed lawsuits against the gun industry, and they are shown on this chart. These lawsuits seek to make gun manufacturers liable for the criminal misuse of firearms. Interestingly enough, three cases have been thrown out by judges in Cincinnati, OH, Bridgeport, CT, and Miami-Dade County, FL.

These cases are interesting. For instance these judges noted:

> . . . the City's complaint is an improper attempt to have this Court substitute its judgment for that of the legislature[.] Only the legislature has the power to engage in the type of regulation. . . .

The city of Cincinnati.

> The plaintiffs have no statutory of common law basis to recoup their expenditures. . . .

The city of Bridgeport.

> . . . the Plaintiffs have not directed this Court to any statute or case that would allow a city or county to proceed against a group of manufacturers. . . .

Miami-Dade County, FL.

The courts have pointed out municipal lawsuits are not the answer. Interestingly enough, the President has announced the Justice Department will pursue a similar lawsuit against the gun manufacturers on behalf of HUD. Basically, the Federal Government is trying to pressure gun manufacturers into settling their current cases.

Once again, the action highlights the President's failure to pass gun control legislation. Instead of bringing forth legislation, he is seeking to go through the judiciary to do what he has been unable to accomplish in Congress.

This next graph shows the results of a poll taken recently by CNN and USA Today. It was conducted between December 9 and 12 of last year. Let me read it:

> As you may know, the U.S. Justice Department is considering filing a lawsuit against the gun manufacture industry seeking to recover the costs associated with gun-related crimes. The companies that manufacture guns in the U.S. have stated the charges have no merit. Which side do you agree with more in this dispute: the Justice Department (or) the gun manufacturers?

The result was, those who agreed with the lawsuit by Justice were 28 percent, and those who agreed the lawsuit had little merit were 67 percent. I really believe this poll reflects how American's feel about a government lawsuit against the gun industry.

In the President's State of the Union address he spoke about the idea of having individual states regulate the sale of handguns by requiring a photo ID and documentation of the successful completion of a safety course—just to purchase a handgun. This is clearly another attempt by the President to tighten gun laws on law-abiding citizens. Of course, criminals do not register their guns. Enforcement, however, is how we get guns out of the hands of the criminals. Republicans have continued to support law enforcement efforts.

Project Exile, for example, which has been put into place around the country, has dropped the murder rate in Richmond, Virginia by 30 percent each year that it has been in place.

Unfortunately, President Clinton cannot say the same for his gun control efforts. This is a graph of ATF gun referrals, prosecutions, and convictions in 1992 and 1998. Between 1992 and 1998 ATF referrals for prosecution went down by 5,500 or 44 percent; prosecutions have dropped 40 percent; and, finally, convictions have dropped 31 percent.

This graph shows just how tough the administration has been since 1992 regarding the enforcement of existing federal gun laws.

Last year, I asked the General Accounting Office (GAO) to conduct an audit of the National Instant Check System (NICS). The system was put in place in November 1998 as phase 2 of the Brady Act. I asked the GAO for an audit to see if, indeed, it is operating as Congress intended it to. I am confident when the report is released—and it has not yet been released but will be very soon—we will have results that show the NICS has not been as effective as we hoped it would be.

Lastly, since last November, there have been numerous news articles from around the country that highlight the publics disfavor with attempts by the President to add more gun control laws. I want to take a minute to highlight a couple of these. One is titled, it is the ''Wrong Approach,'' by the Cheyenne Tribune Eagle, which suggests:

> Since the President has been unable to ban individuals from owning guns, Mr. Clinton has decided to do an end run around the Constitution.

That is the point of view of that particular paper.

Another is titled, ''Gun Deaths, Injuries on Decline.'' This article speaks about a government study which shows that gun deaths have declined since the late 1960's.

Mr. President, I ask unanimous consent to print these articles in the RECORD.

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

[From the Cheyenne Tribune Eagle, Dec. 16, 1999]

WRONG APPROACH—FEDERAL LAWSUIT IGNORES RIGHTS OF GUN MAKERS

Once again, President Bill Clinton, our national embarrassment, is showing utter contempt for our Constitution as well as for the basic rights of the individual and the concept of freedom.

Since he has been unable to ban individuals from owning guns, Mr. Clinton has decided to do an end-run around the Constitution by threatening to sue gun manufacturers. Mr. Clinton is exactly the type of despotic leader the Framers had in mind when they wrote the Second Amendment.

As Thomas Jefferson said, ''The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to

protect themselves against tyranny in government.''

But Mr. Clinton and his elk, meaning the liberals in Congress and all who would idly sit back and allow government to infringe upon a right our framers declared ''shall not be infringed,'' are guilty of abridging our freedoms, endangering our lives and threatening the future of the very government they were elected to preserve.

Mr. Clinton has failed to get Congress to completely ignore the Constitution and ban guns so now he has decided to turn to the courts to get his way.

He said his administration would sue the gun manufacturers, much in the same fashion as the administration sued the tobacco industry, in order to force the private companies to bend to Mr. Clinton's will and his socialistic and erroneous world view.

The president's dubious claim is that the industry's marketing and manufacturing methods are responsible for violent crime at the nation's 3,000 public-housing authorities.

What Clinton fails to comprehend is that government is mostly responsible for the conditions that breed violent crime in public housing.

If Mr. Clinton wishes to end violence in public-housing complexes, he should end public housing. It is a drain on society and ultimately harms the individuals government purports to help. Besides, government has no Constitutional authority to offer public housing.

Another government action that leads to unnecessary violence is its war on drugs. Prohibiting individuals the freedom to pursue drug use is also not authorized by the Constitution. The decriminalization of drugs would have the end result of lessening the burden on our prison system and dramatically reducing violence, much like the repeal of the prohibition against alcohol.

Ultimately, however, the criminal is the one to blame for his actions. Just because a person uses a gun while committing a crime is no reason to blame gun manufacturers. That is tantamount to blaming automakers for every car accident or burger joints for every heart attack.

Mr. Clinton knows he can cripple the gun makers by suing them. Just the cost of defending against a government lawsuit can be cost prohibitive. In effect, it is government banning guns by economically destroying the makers in what can only be termed thuggery. Already 24 cities, including Cincinnati and Cleveland, and two states have filed lawsuits against gun makers.

Hearings are expected to begin in January. We will be watching this one closely.

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[From the Washington Post, Nov. 19, 1999]

GUN DEATHS, INJURIES ON DECLINE—1997 FATALITIES WERE LOWEST SINCE '60S; MANY REASONS CITED

ATLANTA, Nov. 18.—Gun deaths in the United States dropped 21 percent between 1993 and 1997 to the lowest level in more than 30 years, and firearm-related injuries fell 41 percent, the government reported yesterday.

Experts cited such reasons as tougher gun control laws, a booming economy, better police work and gun safety courses.

The study by the Centers for Disease Control and Prevention looked at all gunshot wounds reported at emergency rooms, whether they were intentional, accidental or self-inflicted.

The number of fatalities dropped from 39,595—15.4 gun deaths per 100,000 people—in 1993, to 32,436—12.1 per 100,000—in 1997.

The rate ''is the lowest it's been since the mid-'60s,'' said J. Lee Annest, a CDC statistician. ''This progress is really encouraging and really says that joint prevention efforts of public health officials, legislators and law enforcement should continue.''

The drop was not unexpected: Homicide rates in the 1990s have fallen to levels not seen since the 1960s, and about two-thirds of all homicides are committed with guns. But the latest figures also include suicides and accidental deaths.

Moreover, nonfatal shootings fell from 104,390 to 64,207 in the same period, or from 40.5 per 100,000 to 24.0.

Jim Manown, a spokesman for the National Rifle Association, said the numbers prove that more gun laws are not needed, only that the laws on the books need to be enforced.

''It is a fact that this substantial drop in gun violence directly correlated to a big increase in gun enforcement by police,'' said Lawrence W. Sherman, a University of Pennsylvania professor who has studied gun policy. ''Police were not treating guns in a preventive sense prior to 1993 and now they are.''

Some experts also credit a strong economy that has helped reduce overall crime rates and suicide attempts. Margaret A. Zahn, a North Carolina State University criminology professor, said prosperity has also allowed governments to spend more on services that prevent gun violence, such as domestic violence shelters and youth recreation programs.

The CDC also listed such possible factors as an aging population, increased gun safety measures and the waning of the crack trade.

Gun control advocates said they are encouraged, but pointed out that even so, an average of 265 people a day were shot in 1997.

''People shouldn't be satisfied,'' said Nancy Hwa, spokeswoman for Handgun Control and the Center to Prevent Handgun Violence. ''Everybody is still at risk, and the presence of guns should still be a major concern.''

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[From the Wall Street Journal, Jan. 12, 2000]

DON'T DEMOCRATS BELIEVE IN DEMOCRACY?

(By Robert B. Reich)

If I had my way there would be laws restricting cigarettes and handguns. But Congress won't even pass halfway measures. Cigarette companies have admitted they produce death sticks, yet Congress won't lift a finger to stub them out. Teenage boys continue to shoot up high schools, yet Congress won't pass stricter gun controls. The politically potent cigarette and gun industries have got what they wanted: no action. Almost makes you lose faith in democracy, doesn't it?

Apparently that's exactly what's happened to the Clinton administration. Fed up with trying to move legislation, the White House is launching lawsuits to succeed where legislation failed. The strategy may work, but at the cost of making our frail democracy even weaker.

The Justice Department is going after the tobacco companies with a law designed to fight mobsters—the 1970 Racketeer Influenced and Corrupt Organizations chapter of the Organized Crime Control Act. Justice alleges that the tobacco companies violated RICO by conspiring to create an illegal enterprise. They did this by agreeing to a ''concerted public-relations campaign'' to deny any link between smoking and disease, suppress internal research and engage in 116 ''racketeering acts'' of mail and wire fraud, which included advertisements and press releases the companies knew to be false.

A few weeks ago, the administration announced another large lawsuit, this one against America's gun manufacturers, Justice couldn't argue that the gun makers had conspired to mislead the public about the danger of their products, so it decided against using RICO in favor of offering ''legal advice'' to public housing authorities organized under the Department of Housing and Urban Development, who are suing the gun makers on behalf of their three million tenants. The basis of this case is strict liability and negligence. The gun makers allegedly sold defective products, or products they knew or should have known would harm people.

Both of these legal grounds—the mobster-like conspiracy of cigarette manufacturers to mislead the public, and the defective aspects of guns or the negligence of their manufacturers—are stretches, to say the least. If any agreement to mislead any segment of the public is a ''conspiracy'' under RICO, then America's entire advertising industry is in deep trouble, not to mention health-maintenance organizations, the legal profession, automobile dealers and the Pentagon. And if every product that might result in death or serious injury is ''defective,'' you might as well say good-bye to liquor and beer, fatty foods and sharp cooking utensils.

These two novel legal theories give the administration extraordinary discretion to decide who's misleading the public and whose products are defective. You might approve the outcomes in these two cases, but they establish precedents for other cases you might find wildly unjust.

Worse, no judge will ever scrutinize these theories. The administration has no intention of seeing these lawsuits through to final verdicts. The goal of both efforts is to threaten the industries with such large penalties that they'll agree to a deal—for the cigarette makers, to pay a large amount of money to the Federal Government, coupled perhaps with a steep increase in the price of a pack of cigarettes: and for the gun makers, to limit bulk purchases and put more safety devices on guns. In announcing the lawsuit against the gun makers HUD Secretary Andrew Cuomo assured the press that the whole effort was just a bargaining ploy: ''If all parties act in good faith we'll stay at the negotiating table.''

But the biggest problem is that these lawsuits are end runs around the democratic process. We used to be a nation of laws, but this new strategy presents novel means of legislating—within settlement negotiations of large civil lawsuits initiated by the executive branch. This is faux legislation, which sacrifices democracy to the discretion of administration officials operating in secrecy.

It's one thing for cities and states to go to court (big tobacco has already agreed to pay the states $246 billion to settle state Medicaid suits, and 28 cities along with New York state and Connecticut are now suing the gun manufacturers); it's quite another for the feds to bring to bear the entire weight of the nation. New York state isn't exactly a pushover, but its attorney general, Eliot Spitzer, says the federal lawsuit will finally pressure gun makers to settle. New York's lawsuit is a small dagger, he says. ''the feds' is a meat ax.''

The feds' meat ax may be a good way to get an industry to shape up, but it's a bad way to get democracy to shape up. Yes, American politics is rotting. Special-interest money is oozing over Capitol Hill. The makers of cigarettes and guns have enormous clout in Washington, and they are bribing our elected representatives to turn their backs on these problems.

But the way to fix everything isn't to turn our backs on the democratic process and pursue litigation; as the administration is doing. It's to campaign for people who promise to take action against cigarettes and guns, and against the re-election of House and Senate members who won't. And to fight like hell for campaign finance reform. In

short, the answer is to make democracy work better, not to give up on it.

[From the Wall Street Journal, Nov. 22, 1999]

LIBERALS HAVE SECOND THOUGHTS ON THE SECOND AMENDMENT

(By Collin Levey)

It's the year of Littleton, ''smart guns'' and city lawsuits against gun makers. So where are the law professors speaking up for gun control? In the past few years, many of the premier constitutional experts of the left have come to a shocking conclusion: The Second Amendment must be taken seriously.

Back in 1989, the University of Tennessee's Sanford Levinson became something of a maverick by writing an article in the Yale Law Journal called ''The Embarrassing Second Amendment,'' in which he maintained that the amendment guaranteed an individual right to own guns. Mr. Levinson's argument flew in the face of the interpretation that had prevailed since a 1939 Supreme Court ruling, which held that the amendment's reference to a ''well-regulated militia'' meant it only guaranteed a ''collective'' right to bear arms.

Until recently, few legal scholars had done much research on the Second Amendment. ''One came up knowing it was a collective right—not because we learned about it in law school, but because we read the occasional op-ed,'' says Dan Polsby of Virginia's George Mason Law School. ''Sandy Levinson made it respectable to think that heterodoxy might be possible.''

The most prominent of the converts is Harvard's Laurence Tribe, once touted as a potential Supreme Court appointee in a Democratic administration. Mr. Tribe surprised many of his fellow liberals when the latest edition of his widely used textbook, ''American Constitutional Law,'' appeared this year. Previous versions had virtually ignored the Second Amendment. The new one gives it a full work-up—and comes down on the side of Mr. Levinson.

Mr. Tribe believes the right to bear arms is limited, subject to ''reasonable regulation in the interest of public safety,'' as he and Yale Law Professor Akhil Reed Amar wrote in the New York Times last month. But Mr. Tribe has written that people on both sides of the policy divide face an ''inescapable tension . . . between the reading of the Second Amendment that would advance the policies they favor and the reading of the Second Amendment to which intellectual honesty, and their own theories of Constitutional interpretation, would drive them.''

Journalist Daniel Lazare, a liberal gun-control advocate, acknowledges the tension, writing in Harper's: ''The truth about the Second Amendment is something that liberals cannot bear to admit: The right wing is right.'' Mr. Lazare argues for amending the Constitution to repeal the Second Amendment.

What accounts for the change in Second Amendment interpretation? One of the catalysts has been a recently unearthed series of clues to the Framers' intentions. These include early drafts of the amendment penned by James Madison in 1789. In his original version he made ''The right of the people'' the first clause, indicating his belief that it is the right of the people to keep and bear arms that makes a well-regulated militia possible. State constitutions of the era confirm this interpretation: Pennsylvania accorded its citizens the ''right to bear arms for the defense of themselves and the state.''

In a letter to English Whig John Cartwright, Thomas Jefferson wrote that ''the constitutions of most of our states assert, that all power is inherent in the people; . . . that it is their right and duty to be at all times armed.'' These cross-Atlantic discussions are important, since the Framers were distinguishing the right of Americans to bear arms from English law's treatment of the question. Joyce Lee Malcolm, a professor at Bentley College, has examined the Second Amendment in light of English law. She concludes that the Colonists had intended to adopt basic ideas of English governance but to strengthen the people's rights. A right to ''keep and bear'' was seen as a bulwark against oppressive government.

Other scholars have found supporting evidence in the 14th Amendment, which bars states, in addition to the federal government, from restricting certain rights of citizens. According to Robert Cottrell of George Washington University, in the aftermath of slavery, with no real police presence, this protection was critical to preventing the monopoly of guns from resting in the hands of white officials, many of whom moonlighted in white hoods. The 14th Amendment has been a powerful force in constitutional law, playing a key role in the development of free-speech jurisprudence.

''The emaciated condition of the Second Amendment now is very similar to the condition of the First Amendment in 1908,'' says Duke University Law professor William Van Alstyne. In the aftermath of World War I, Supreme Court Justices Oliver Wendell Holmes and Louis Brandeis began writing dissents in favor of a broader reading of the First Amendment. But not until the 1930s did courts begin adopting their arguments.

The new reading of the Second Amendment may get a hearing if a gun control case, Emerson v. Texas, makes it to the Supreme Court. In a divorce proceeding, Timothy Joe Emerson was issued what's been called a ''y'all be civil'' restraining order—routine in Texas divorce cases. Unknown to him, one provision barred him from possessing a gun. When he took his 9mm Beretta out of a desk drawer during an argument with his wife, he was charged with violation of a federal gun control law.

U.S. District Judge Sam Cummings ruled that the order violated Mr. Emerson's Second Amendment rights. As Mr. Polsby puts it, ''If you're simply attaching a firearms forfeiture to a person who has no such designation as a dangerous person, that's not acceptable if the Second Amendment means anything.''

The state of Texas has appealed to the Fifth U.S. Circuit Court of Appeals. If that court's ruling makes it to the Supreme Court, it would be the first gun-control case heard by the justices since 1939's U.S. v. Miller, which set the precedent for the collective-right interpretation. In that case, the Supreme Court held that a bootlegger was rightly convicted of transporting a sawed-off shotgun across state lines, on the grounds that the weapon had no legitimate use in a militia.

Today, two Supreme Court justices have suggested interest in a reading of the Second Amendment as guaranteeing an individual right. Clarence Thomas has noted the law-review articles piling up on the side of an expanded interpretation, suggesting it may be time to reconsider Miller. And Antonin Scalia, in a decision on an unrelated matter, referred to ''the people' protected by the Fourth Amendment, and by the First and Second Amendments.''

''As a liberal and a humanist,'' Prof. Tribe says today, ''people thought I was betraying them by saying that the Second Amendment is part of the Constitution.'' But, he adds, ''what is being knocked away now is a phony pillar and a mirage.''

[From the Washington Post, Aug. 29, 1999]

ATF FIREARMS PROSECUTION REFERRALS DROP—STUDY SAYS CRIMINAL CASES HAVE FALLEN SINCE 1992, BUT PICKED UP LAST YEAR

(By Edward Walsh)

There has been a steady decline during the Clinton administration in the number of weapons-related criminal cases that the Bureau of Alcohol, Tobacco and Firearms (ATF) has turned over to federal prosecutors for legal action according to a new study made public yesterday.

The study by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, which analyzes law enforcement data, said the number of ATF referrals to federal prosecutors has dropped by 44 percent since 1992, when there were 9,885 referrals. Last year, the agency charged with enforcing federal firearms laws referred 5,510 cases to federal prosecutors, according to TRAC. Most ATF referrals to federal prosecutors involve alleged weapons offenses.

It also said that until last year there has been a matching decline in the number of federal prosecutions of ATF weapons cases, which fell from 4,108 in 1992 to 2,165 in 1997. But in 1998, that trend was reversed with the prosecution of 2,710 ATF weapons cases, a 25 percent increase over the previous year, the report said.

The TRAC researchers, who analyzed data from the Justice Department, the Office of Personnel Management and ATF, said one reason there may be fewer criminal referrals is that ATF's work force is smaller now than it was earlier in the decade. The agency's total force has declined by 8 percent since 1992 and there has been an even sharper drop of 14 percent in the number of its criminal investigators. ATF had 2,072 criminal investigators in 1992 and 1,779 last year, according to the report.

The findings are likely to fuel the gun control debate in Congress, where opponents, such as the National Rifle Association, argue that there is no need for new gun control laws and that the administration should concentrate on enforcing existing laws.

Administration officials did not dispute the trend toward fewer federal prosecutions, but said part of this was due to a decision by ATF to concentrate more of its resources on complex investigations of major gun traffickers and less on individual firearms law violations.

A Justice Department spokeswoman, who declined to be identified, also disputed the accuracy of some of the numbers in the TRAC report. The report said that in 1998 there were 2,528 federal prosecutions under two frequently used federal firearms laws, but Justice Department records show that 5,876 defendants were prosecuted under those laws that year, she said.

She said the number of federal firearms violators who have received sentences of more than five years in prison has increased by more than 25 percent since 1992, reflecting ATF's decision to focus more on gun traffickers.

''There is a decline in those [firearms] charges, but it is not as dramatic as portrayed here, the spokeswoman said.

''The number of low-end federal offenders is down because the ATF is strapped for resources and made a conscious decision to focus on traffickers and because the states are doing a better job so we don't have to do those cases.''

An ATF spokeswoman, who also did not want her name used, said the agency experienced a 20 percent reduction in field agents between 1993 and 1997, losing some of its most experienced agents to retirement. ATF is now aggressively hiring agents, she said,

but it will take time to train them and get them in the field.

The ATF spokeswoman also said that statistics on prosecutions do not reflect all of the agency's activities, which in the 1990s have included major investigations of the bombings of the World Trade Center in New York and the federal building in Oklahoma City.

Mr. THOMAS. Mr. President, I believe all of us want to find a better solution to illegal gun use. We intend to do that. People in my State believe more laws are not the answer, that, indeed, the enforcement of gun laws is the answer. We are pleased to see that the administration has finally added increased funding for the enforcement of existing gun laws—something we have been talking about over the last 7 years. The dollars alone, however, will not do it. There has to be some oversight. We have to make sure there is an effective use of law enforcement.

Mr. President, I yield time to my friend from Idaho.

Mr. GREGG. Will the Senator from Wyoming yield?

Mr. THOMAS. Absolutely.

Mr. GREGG. I understand the Senator from Wyoming controls the time. I wonder if, after the Senator from Idaho speaks for 5 or 10 minutes, the Senator will be willing to give me 5 or 10 minutes on a separate subject.

Mr. THOMAS. Will it be possible to let Senator SMITH speak for a couple of minutes and then Senator GREGG can wind up our hour? Mr. President, will that be all right?

Mr. GREGG. That will be fine.

Mr. THOMAS. That way, we will hear from the Senator from Idaho, the Senator from New Hampshire, Mr. SMITH, and the Senator from New Hampshire, Mr. GREGG.

The PRESIDING OFFICER. Before the Senator from Idaho begins, has the Senator from Wyoming propounded a unanimous consent request?

Mr. THOMAS. I ask unanimous consent that the Senator from Idaho be allowed to speak and then the Senator from New Hampshire, Mr. SMITH, and then the Senator from New Hampshire, Mr. GREGG, in that order.

The PRESIDING OFFICER. Senator GREGG from New Hampshire being the third speaker.

Mr. GREGG. Reserving the right to object, I simply ask the Senator from Wyoming if I may be reserved 10 minutes within that timeframe.

Mr. THOMAS. Absolutely.

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

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator from Wyoming, Mr. CRAIG THOMAS, for coming to the floor today once again to shape and clarify some of these issues that are going to be front and center before this Congress and this Senate over the coming months as we deal with Presidential initiatives, Presidential budgets, and some of the issues that are going to be, by fall and November, election-time issues.

Last week, I took issue with the President's State of the Union Address in a broad sense as it related to the budget and some of the initiatives he propounded within the State of the Union. Today, I will focus, as my colleague from Wyoming has focused, on the element in the President's speech dealing with guns and gun violence.

Last November, the Centers for Disease Control reported 34,000 Americans die every year from firearm injuries. If there is good news to be found in that terrible statistic, it is that the number has declined every year for the last 4 years. It is fewer than the 43,000 Americans who die every year from motor vehicle accidents. And yet when we have some of our colleagues on the floor pounding their podiums and saying how terrible it is—and it is terrible—they forget to put it in relation to other kinds of accidents and/or intentional acts that produce deaths among the American citizenry.

That figure of 34,000 is far less than the 44,000 to 98,000 patients who die every year by medical error. That is right. I am talking about errors made in the delivery of medicine. It is estimated that 44,000 to 98,000 patients die every year by medical error—that is a statistic which comes from the Institute of Medicine—and yet somehow when such a tragedy happens, it does not make the headline in the paper; it simply makes the obituary page.

When we consider there are over 200 million privately owned guns in the United States, we cannot escape the conclusion that the overwhelming majority of America's 80 million gun owners are peaceful and extremely responsible and using their constitutional rights in a responsible-citizen way. There are 80 million gun owners and 200 million privately owned guns in America.

We in the Government are charged with the responsibility of seeing that guns are used appropriately within the Constitution. That is, in part, our job. It is an American right and responsibility of all Americans, should they wish to exercise it. We are here to deal with those who use guns to intimidate, to steal, to rape, to murder. That is what the Government is for. That is our job, not to restrict or control the right of the free citizen in the exercise of his or her constitutional right, but to go at those who do the opposite, who use the right in the wrong way—to steal, to rape, or to murder. This duty comes before any other matter that we would want or should want to consider on the issue of guns.

We know when the Government takes this responsibility seriously, we save lives. You can come to the floor and pass all of the politically driven bills that you want to, but if they are not enforced or not enforceable, then it is a political statement, not a responsible act of our Government.

In Richmond, VA, a Republican initiative called Project Exile has stepped up and prosecuted the gun-toting criminals and cut the murder rate by 30 percent every year since it was enacted in 1997. That is in Richmond, VA. In fact, it is said in Richmond that a man walked into a 7–Eleven with a baseball bat to rob it. They caught him. They said: Why didn't you use a gun? He said: You get locked up if you use a gun.

Isn't it amazing that the criminal element of our society will read and respond to the effective and targeted enforcement of a law? As a result of that, in a city that was plagued by what any person would judge as a high rate of crime and murder, it has dropped that precipitously, since the targeted direction of law enforcement not only to arrest but to prosecute and lock up those who misuse their gun rights.

How does the administration address the duty to the American people? Over the past 7 years, the Clinton-Gore administration has cut the ATF's pursuit of criminals who use guns by nearly half. The number of prosecutions fell by nearly as much, and the number of gun-toting criminals convicted fell by one-third. This isn't an NRA statistic; this is an independent Syracuse University statistic. It is objective by every politician's measurement.

This is how it profiles on a chart. Last year, in this Chamber, Vice President AL GORE cast the tiebreaking vote in favor of interfering with peaceful, law-abiding, responsible gun ownership—not criminals, but responsible citizens exercising their right to go out and buy a firearm for their personal ownership and possibly for their personal protection.

It was quite a moment for the Vice President. There he sat in that chair, the image of leadership. He was able to tell Americans how concerned he was about gun violence because he had cast the tiebreaking vote to impose greater restrictions on law-abiding Americans.

But I wonder, when this administration was gutting the enforcement of laws against gun violence, was the Vice President casting his vote then? No. Here is the Vice President's record, right here on this chart. This is where he and the President took over the law enforcement responsibilities of the Justice Department of this country.

Look what happened during the Reagan and the Bush years—aggressive efforts to go at the criminals; arrests went up; crime began to go down.

Here the Clinton-Gore administration backed off. They cut budgets. You know the rest of the story. When this administration was letting violent criminals off, I have a simple question to ask: Where was AL?

How many gun-toting criminals would be locked up today if the Clinton-Gore administration had merely kept pace with the Reagan-Bush administration's record portrayed on this chart? I would like to hear the Vice President answer this question to American mothers. It is the right question to ask. It is a response that all deserve.

But there is more disturbing evidence that this administration does not take seriously its duty in law enforcement.

The national instant check system is designed to immediately notify the FBI if a criminal is trying to purchase a gun. I support that. Every Senator supports the ability of someone going into a licensed firearm dealer to buy a firearm immediately being checked, just like swiping your credit card through a machine at any retail outlet in America and instantly finding whether you have credit on your card so you can make that purchase.

We want the same kind of response when it comes to the purchase of a gun. We are nearly there. We have nudged, we have pushed, we have cajoled this administration and their Justice Department until they have finally done it—although they dragged their feet progressively over the last 8 years.

According to a staff report of the Senate Judiciary Committee, since November of 1998, this Republican initiative, started here on this floor—the instant check system background check—has stopped over 100,000 criminals from purchasing guns. That represents an enormous number of bad actors who need to be put back in jail. How many have the administration put back in jail? To my knowledge, none.

You heard the President in the well of the House in the State of the Union Address talk about all of these criminals detected and stopped from buying a gun. If a criminal walks into a hardware store or a gun shop and attempts to buy a gun over the counter from a licensed firearm dealer, and his background is checked, and he is a felon with a record, he has violated a law. He is in violation of the law. Yet the ATF has referred only one-fifth of 1 percent of these criminals acting illegally to the Justice Department for prosecution.

Mr. President, I am sorry. You can talk all you want about guns, but your actions show you don't care. You only want the politics of it.

Last year, this Congress said: No. We do not want the politics of it. We will not take that effort. We want substance. The administration claims it has increased the referral of firearms cases back to the States for prosecution. But that is the same as letting a criminal off the hook.

That is not an accusation of the States. These are Federal firearms violations. They deserve Federal prosecution. State prosecutors have fewer resources than Federal prosecutors, and State firearm convictions result in shorter sentences. Moreover, with a budget that grew 65 percent from 1992 to 1998, I am sorry, Janet Reno, we gave you the money; you didn't do the job. That growth in budget was the Justice Department.

The Clinton-Gore administration even lets convicted felons off the hook. Last September, we came to the floor to speak about it. This President, with his Executive power, granted clemency to 12 terrorists convicted of 36 counts of violating Federal firearms laws. I am amazed at you, Bill Clinton, that you can stand on the floor of the U.S. House of Representatives and, with a straight face, talk about firearms control, when you turned loose convicted felons, convicted of firearms violations.

As recently as last year, the President said he would spend not more than $5 million on the programs such as Project Exile, the kind I just outlined used in Richmond, VA. We asked for $50 million. The President largely got his way. The final figure was about $7 million. Sorry, Mr. President. Last year at this time you didn't deserve credit for any of it. Now you have stepped up. Now you are saying you want $280 million to hire new investigators and prosecutors, both at the Federal and the State level. I ask you why, Mr. President? I think I know the answer. It is polling well. You went out and asked the question of the American people about law enforcement, something every Senator knows about, and it polled well. It got in the State of the Union.

It is far from clear that inadequate funding is the problem. The drop in prosecutions we have seen under this administration cannot be explained entirely by staff levels. The ATF observers at Syracuse University attest, ''other unknown forces or policies changes are apparently at work.'' Many observers believe the administration already has the resources it needs to increase as dramatically as they want the prosecutions necessary.

I ask unanimous consent to continue for 3 more minutes.

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

Mr. CRAIG. One other issue I think is important: The President did something the other night that is the most radical expression on gun control by any President in the history of this country—I think that is worth repeating—the most radical proposal on gun control by any President in the history of this country. Here is what he said:

> Every state in this country already requires . . . automobile drivers to have a license. I think they ought to do the same thing for handgun purchases.

Mr. President, it is obvious you don't understand.

What the President failed to grasp is that no State requires a license to purchase a car. If you want to have it hauled home to your ranch out in Wyoming and you stay on your ranch and you never get off on the public road, you, Senator CRAIG THOMAS, do not need a license to own a car. You need a license to drive a car on a public right of way, on a public road. States do not require a license to drive a car except on public roads. That is the whole point the President made. The average American scratches his head and says, yes, license cars, license guns. But the President said you had to have a license to buy a gun, a direct statement of violation of the second amendment of our Constitution.

I can understand why Americans are frustrated, but I doubt the President has had a driver's license, maybe a valid one, in a long while. He has not needed one. I doubt he has ever waited in line at the Department of Motor Vehicles to get a license or to take the test in a long while. So if the President wants to license handguns like cars, then he is talking about issuing licenses to take a firearm out in public because it would be against the Constitution to require a license to buy one, so he must be talking about taking a license out to take a gun out in public. Well, we already do that. It is called concealed carry permits. Thirty States already say you can get a license to carry a gun in public, and it is called a concealed carry. The State of Vermont doesn't require a license at all.

I regret to inform you, President Bill Clinton, that what you are talking about is something I don't think you understand. No State requires a person to have a driver's license to purchase a car, nor should this Federal Government ever require a free citizen in our country the need to have a license to purchase a gun.

Mr. President, are you then talking about a national concealed carry law? That is probably a pretty good idea. For those who want to carry in public, you could say you have to have a certain safety record and safety standard and experience and all of those kinds of things if you want—not to own, now, but to carry openly in public. I think that is what the President is not talking about at all.

My time is up and there are a good many other facts to be dealt with. In States that have concealed carry, crime drops; when the criminal element knows that the citizen out there is armed for his or her self-protection, for the protection of their private property and their personal rights and their person itself.

Extensive study has also shown that when states begin issuing concealed carry permits, murders drop by about 8 percent, rapes fall by 5 percent and aggravated assaults drop by 7 percent.

Moreover, as economist John Lott notes, states that began issuing nondiscretionary permits between 1977 and 1992 ''virtually eliminated mass public shootings after four or five years.''

Why does crime fall when citizens' right to bear arms is protected? Because there is nothing a criminal fears more than a citizen who can defend himself.

The President's comments were, of course, a plug for the Vice President, who has been talking for some time about regulating guns like cars.

I wonder if that's really what either of them wants. In the words of second amendment scholar David Kopel, ''if Gore follows through on his promise to treat guns like cars, he will oversee the most massive decontrol of firearms in

America since 1868, when the 14th Amendment abolished Southern states' Black Codes, which prohibited freedmen from owning guns.''

Preserving and strengthening the second amendment would suit most Americans just fine. I hope that's really what the President and Vice President want. But I suspect it isn't. And I worry that if word gets out, some poor White House speechwriter is going to lose his job.

These are issues we will debate at length on the floor of the Senate over the coming months. I thought it was important to come to the floor to begin to understand, to begin to explain so the American people can more clearly understand the kind of irrational approach this administration is currently proposing and certainly the less than legitimate record they have in the area of law enforcement when it comes to the use of a firearm.

I thank my colleague from Wyoming for taking out this time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank my colleague from Wyoming for yielding me the time, and I thank him for his leadership in defense of the second amendment, as well as my colleague from the State of Idaho, who has been a long-time advocate of the second amendment.

I regret I have to stand up here again with my colleagues and defend the second amendment because we should not have to do that. I am honored to do it, but it is one of our amendments. It is No. 2 in the Constitution.

I find myself wondering why so many of our colleagues come here over and over again to try to take second amendment rights away. The right to keep and bear arms is one of the most fundamental rights we possess. You can't pick and choose which amendment you support in the Constitution, nor should you pick and choose what paragraph you support in the Constitution. If it is in the Constitution, we ought to abide by it and honor it.

The framers knew it, and that is why they placed the second amendment right up there at No. 2 in the Bill of Rights. They did not want the Federal Government to interfere with this basic right. It was part of the Bill of Rights for the people, and it was No. 2.

I get a kick out of listening to so many of our colleagues on the other side of the issue who, in their eloquence, can knock the second amendment down. It is interesting, though, when we hear from the folks who were actually on the scene when the second amendment was written, folks such as Samuel Adams, who said:

> Among the natural rights of the colonists are these—first, the right to life; secondly to liberty; thirdly to property; together with the right to defend them in the best manner they can.

Basically talking about the right to bear arms. John Adams:

> Arms in the hands of the citizens may be used at individual discretion for the defense of the country, the overthrow of tyranny or private self-defense.

These are the founders. Patrick Henry:

> Guard with jealous attention the public liberty . . . The great object is that every man be armed. Everyone who is able may have a gun.

Thomas Jefferson:

> The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government.

This is important business we are talking about. This was a basic right. Noah Webster:

> Before a standing army can rule, the people must be disarmed, as they are in almost every kingdom of Europe. The Supreme power in America cannot enforce unjust by the sword because the whole of the people are armed, and constitute a force superior to any band of regular troops.

Richard Henry Lee:

> To preserve liberty it is essential that the whole body of the people always possess arms.

With all due respect to my colleagues who speak on this issue in opposition to the second amendment, I don't think they are as eloquent or as knowledgeable, and I know they weren't there. These guys knew what they were talking about because they wrote it. So let's not talk about revisiting the Constitution and being politically correct and changing things we can't change.

These are the giants in history, the people who were there on the scene. Yet, in the past year or so on this floor, I and many of my colleagues hear over and over again: gun control, gun control, gun control. Some of it is enacted, which infringes on the second amendment of millions of law-abiding Americans. You cannot trample on the Constitution of the United States and stand up there and take that oath and say you are going to defend it. It is simply inconsistent.

Despite what history and the second amendment tell us, some keep trying to come up with new and inventive ways to subvert that Constitution. I don't hear any of these people coming down and saying we are going to eliminate the first amendment, but I do hear them saying we ought to eliminate the second amendment.

The gun control provisions in the juvenile justice bill that were spurred on by the tragedy at Columbine used that tragedy, frankly. There were already 20,000 existing gun laws when that happened, but the killings were not stopped. Do we think more gun laws are going to stop something such as that from happening?

There was a recent amendment to stop gun manufacturers from declaring bankruptcy. Down the line they come, time after time again, singling out one legal product for discrimination: guns. No other lawful industry is treated so unfairly. Fortunately, my colleagues voted overwhelmingly to reject that amendment.

The Clinton administration said it will file a Federal lawsuit against gun manufacturers. Here is an article from the Washington Post—it is interesting coming from the Washington Post—reporting how two State courts dismissed lawsuits against gun manufacturers. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, December 1999]

FIREARMS MAKERS WIN DISMISSAL OF LAWSUITS IN 2 STATES

In back-to-back victories for the firearms industry, judges in two states have dismissed lawsuits against gun manufacturers and dealers.

A state judge in Florida tossed out a suit by Miami-Dade County yesterday, three days after a Connecticut state judge dismissed a similar lawsuit brought by the mayor and city of Bridgeport.

The two lawsuits mirror other suits filed by municipalities that allege that guns have created a public nuisance, threatening residents' health and safety, and that gun manufacturers, like polluters, should have to pay for the cleanup.

But in their separate decisions, the judges in Connecticut and Florida reached the same conclusion: The governments lack legal standing to sue.

''The plaintiffs have no statutory or common-law basis to recoup their expenditures,'' ruled the judge in Bridgeport. ''Public nuisance does not apply to the design, manufacture, and distribution of a lawful product,'' said the Florida judge.

The mayors of Bridgeport and of Miami-Dade County sued the firearms industry, claiming negligence, product liability and public nuisance. Those mayors said that the industry was responsible for the illegal flow of handguns into their areas.

The mayors want to recover gun violence costs for police, fire and emergency services. Bridgeport further sued to recover money lost from depressed property values and businesses that moved out of the city.

Bridgeport and Miami-Dade are among 29 cities and counties—including Chicago, San Francisco and Los Angeles—suing more than two dozen gun makers. In October, an Ohio judge threw out a similar lawsuit filed by the city of Cincinnati.

In one setback for the firearms industry, a state court judge in Georgia earlier had ruled that Atlanta could pursue its negligence claims against gun makers.

Last week, President Clinton said his administration is thinking about filing a federal lawsuit on behalf of the 3 million people living in public housing. Clinton's move was an attempt to force the industry into negotiations to settle the municipalities' lawsuits.

Anne Kimball, a Chicago lawyer representing Smith & Wesson Corp. and other gun makers, said the judges saw that the actions of criminals cannot be controlled by the firearms industry. ''There is no quarrel that everyone is concerned about violence . . . The question is what to do about it. But these lawsuits are wrong,'' she said.

Mr. SMITH of New Hampshire. They are basically saying they are going to throw these suits out. That is the gist of it. They are not constitutional. The courts recognize that. The judges said they were completely lacking any legal basis.

Now the President wants to license and register all guns, like automobiles, as my colleague from Idaho referred to.

The last time I checked, there wasn't a constitutional right to drive. Does anybody know about that? I don't think they knew what a car was when the Constitution was written. There is no comparison between the two issues. I never heard anything from the Founding Fathers about the right to wagons or horses during that time. I never heard Patrick Henry say: Give me mobility or give me death. He said: Give me liberty or give me death. That is because driving a car is a privilege, not a right. It is a privilege. Gun owners would love to have guns treated as cars, with no background checks, no waiting periods, no age limit; it might be a good thing.

Tyranny isn't always obvious. It isn't always about killing and communism and all that. Tyranny can be much more subtle, piecemeal, gradual—like violating our oath of office and voting against our constitutional rights. It happens all the time in this place. History will judge us for it; it will judge us on the basis of how many times we stood here after having taken the oath of office and then having ignored that oath.

The second amendment guarantees that the right to keep and bear arms shall not be infringed. If you are for gun control—and you have a right to be—then you are against the Constitution of the United States. Change the amendment if you think you can do it. But don't keep passing gun control legislation time after time after time. That is what we are doing in these proposals and laws. We are doing it quietly, without violence, and with an air of respectability, which is what troubles me—as if it is right to do it here because it is on the floor of the Senate.

We are violating the constitutional rights of millions of law-abiding American citizens across the country, and any way you slice it that is still tyranny. That is why I am proud to stand here, as I have done many times—and I will do it every day, if I have to, until the last day I am in the Senate—in defense of the second amendment. I am pleased and proud to support the second amendment.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, the other Senator from New Hampshire will be here shortly. I thank my friends for talking about the issue. I think it is one that is clearly important to many of us. It is constitutional. It is right. It is something we all support. It is something, however, we don't want to constantly have before us as each new issue comes up. This can be brought up as an amendment or as a way of stalling going on to other things. I appreciate very much the opportunity to do this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1052, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1052) to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE AND PURPOSE.***

*(a) This Act may be cited as the ''Northern Mariana Islands Covenant Implementation Act''.*

*(b) STATEMENT OF PURPOSE.—In recognition of the need to ensure uniform adherence to long-standing fundamental immigration policies of the United States, it is the intention of Congress in enacting this legislation—*

*(1) to ensure effective immigration control by extending the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), in full to the Commonwealth of the Northern Mariana Islands, with special provisions to allow for the orderly phasing-out of the nonresident contract worker program of the Commonwealth of the Northern Mariana Islands, and the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth of the Northern Mariana Islands;*

*(2) to minimize, to the greatest extent possible, potential adverse effects this orderly phase-out might have on the economy of the Commonwealth of the Northern Mariana Islands by:*

*(A) encouraging diversification and growth of the economy of the Commonwealth of the Northern Mariana Islands consistent with fundamental values underlying Federal immigration policy;*

*(B) recognizing local self-government, as provided for in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America through consultation with the Governor and other elected officials of the Government of the Commonwealth of the Northern Mariana Islands by Federal agencies and by considering the views and recommendations of such officials in the implementation and enforcement of Federal law by Federal agencies;*

*(C) assisting the Commonwealth of the Northern Mariana Islands to achieve a progressively higher standard of living for its citizens through the provision of technical and other assistance;*

*(D) providing opportunities for persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor; and*

*(E) ensuring the ability of the locally elected officials by the Commonwealth of the Northern Mariana Islands to make fundamental policy decisions regarding the direction and pace of the economic development and growth of the Commonwealth of the Northern Mariana Islands, consistent with the fundamental national values underlying Federal immigration policy.*

***SEC. 2. IMMIGRATION REFORM FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.***

*(a) AMENDMENTS TO ACT APPROVING THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA.—Public Law 94–241 (90 Stat. 263), as amended, is further amended by adding at the end thereof the following:*

***"SEC. 6. IMMIGRATION AND TRANSITION.***

*''(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—Effective on the first day of the first full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act (hereafter the ''transition program effective date''), the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.) shall apply to the Commonwealth of the Northern Mariana Islands: Provided, That there shall be a transition period ending December 31, 2009 (except for subsection (d)(2)(I)), following the transition program effective date, during which the Attorney General of the United States (hereafter ''Attorney General''), in consultation with the United States Secretaries of State, Labor, and the Interior, shall establish, administer, and enforce a transition program for immigration to the Commonwealth of the Northern Mariana Islands provided in subsections (b), (c), (d), (e), (f), (g), and (j) of this section (hereafter the ''transition program''). The transition program shall be implemented pursuant to regulations to be promulgated as appropriate by each agency having responsibilities under the transition program.*

*''(b) EXEMPTION FROM NUMERICAL LIMITATIONS FOR H–2B TEMPORARY WORKERS.—An alien, if otherwise qualified, may seek admission to the Commonwealth of the Northern Mariana Islands as a temporary worker under section 101(a)(15)(H)(ii)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B)) without regard to the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)).*

*''(c) TEMPORARY ALIEN WORKERS.—The transition program shall conform to the following requirements with respect to temporary alien workers who would otherwise not be eligible for nonimmigrant classification under the Immigration and Nationality Act:*

*''(1) Aliens admitted under this subsection shall be treated as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258), or adjustment of status, if eligible therefor, under this section and section 245 of such Act (8 U.S.C. 1255).*

*''(2)(A) The United States Secretary of Labor shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each temporary alien worker who would not otherwise be eligible for admission under the Immigration and Nationality Act. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, to zero, over a period not to extend beyond December 31, 2009, and shall take into account the number of petitions granted under subsection (j). In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the United States Secretary of Labor to promote the maximum use of, and to prevent adverse effects on wages and working conditions*

*of, persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, taking into consideration the objective of providing as smooth a transition as possible to the full application of federal law.*

*''(B) The United States Secretary of Labor is authorized to establish and collect appropriate user fees for the purposes of this section. Amounts collected pursuant to this section shall be deposited in a special fund of the Treasury. Such amounts shall be available, to the extent and in the amounts as provided in advance in appropriations acts, for the purposes of administering this section. Such amounts are authorized to be appropriated to remain available until expended.*

*''(3) The Attorney General shall set the conditions for admission of nonimmigrant temporary alien workers under the transition program, and the United States Secretary of State shall authorize the issuance of nonimmigrant visas for aliens to engage in employment only as authorized in this subsection: Provided, That such visas shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except the Commonwealth of the Northern Mariana Islands. An alien admitted to the Commonwealth of the Northern Mariana Islands on the basis of such a nonimmigrant visa shall be permitted to engage in employment only as authorized pursuant to the transition program. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under paragraph (2) have been met.*

*''(4) An alien admitted as a nonimmigrant pursuant to this subsection shall be permitted to transfer between employers in the Commonwealth of the Northern Mariana Islands during the period of such alien's authorized stay therein, without advance permission of the employee's current or prior employer, to the extent that such transfer is authorized by the Attorney General in accordance with criteria established by the Attorney General and the United States Secretary of Labor.*

*''(d) IMMIGRANTS.—With the exception of immediate relatives (as defined in section 201(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)) and persons granted an immigrant visa as provided in paragraphs (1) and (2) of this subsection, no alien shall be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands.*

*''(1) FAMILY-SPONSORED IMMIGRANT VISAS.—For any fiscal year during which the transition program will be in effect, the Attorney General, after consultation with the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, and in consultation with appropriate federal agencies, may establish a specific number of additional initial admissions as a family-sponsored immigrant at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, pursuant to sections 202 and 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152 and 1153(a)).*

*''(2) EMPLOYMENT-BASED IMMIGRANT VISAS.—*

*''(A) If the Attorney General, after consultation with the United States Secretary of Labor and the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, finds that exceptional circumstances exist with respect to the inability of employers in the Commonwealth of the Northern Mariana Islands to obtain sufficient work-authorized labor, the Attorney General may establish a specific number of employment-based immigrant visas to be made available during the following fiscal year under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)). The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.*

*''(B) Upon notification by the Attorney General that a number has been established pursuant to subparagraph (A), the United States Secretary of State may allocate up to that number of visas without regard to the numerical limitations set forth in sections 202 and 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1152 and 1153(b)(3)(B)). Visa numbers allocated under this paragraph shall be allocated first from the number of visas available under section 203(b)(3) of such Act (8 U.S.C. 1153(b)(3)), or, if such visa numbers are not available, from the number of visas available under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).*

*''(C) Persons granted employment-based immigrant visas under the transition program may be admitted initially at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, as lawful permanent residents of the United States. Persons who would otherwise be eligible for lawful permanent residence under the transition program, and who would otherwise be eligible for an adjustment of status, may have their status adjusted within the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence.*

*''(D) Any immigrant visa issued pursuant to this paragraph shall be valid only for application for initial admission to the Commonwealth of the Northern Mariana Islands. The admission of any alien pursuant to such an immigrant visa shall be an admission for lawful permanent residence and employment only in the Commonwealth of the Northern Mariana Islands during the first five years after such admission. Such admission shall not authorize residence or employment in any other part of the United States during such five-year period. An alien admitted for permanent residence pursuant to this paragraph shall be issued appropriate documentation identifying the person as having been admitted pursuant to the terms and conditions of this transition program, and shall be required to comply with a system for the registration and reporting of aliens admitted for permanent residence under the transition program, to be established by the Attorney General, by regulation, consistent with the Attorney General's authority under chapter 7 of title II of the Immigration and Nationality Act (8 U.S.C. 1301–1306).*

*''(E) Nothing in this paragraph shall preclude an alien who has obtained lawful permanent resident status pursuant to this paragraph from applying, if otherwise eligible, under this section and under the Immigration and Nationality Act for an immigrant visa or admission as a lawful permanent resident under the Immigration and Nationality Act.*

*''(F) Any alien admitted under this subsection, who violates the provisions of this paragraph, or who is found removable or inadmissible under section 237(a) (8 U.S.C. 1227(a)), or paragraphs (1), (2), (3), (4)(A), (4)(B), (6), (7), (8), (9), or (10) of section 212(a) (8 U.S.C. 1182(a)), shall be removed from the United States pursuant to sections 235, 238, 239, 240, or 241 of the Immigration and Nationality Act, as appropriate (8 U.S.C. 1225, 1228, 1229, 1230, and 1231).*

*''(G) The Attorney General may establish by regulation a procedure by which an alien who has obtained lawful permanent resident status pursuant to this paragraph may apply for a waiver of the limiting terms and conditions of such status. The Attorney General may grant the application for waiver, in the discretion of the Attorney General, if—*

*''(i) the alien is not in removal proceedings;*

*''(ii) the alien has been a person of good moral character for the preceding five years;*

*''(iii) the alien has not violated the terms and conditions of the alien's permanent resident status; and*

*''(iv) the alien would suffer exceptional and extremely unusual hardship were such limiting terms and conditions not waived.*

*''(H) The limiting terms and conditions of an alien's permanent residence set forth in this paragraph shall expire at the end of five years after the alien's admission to the Commonwealth of the Northern Mariana Islands as a permanent resident. Following the expiration of such limiting terms and conditions, the permanent resident alien may engage in any lawful activity, including employment, anywhere in the United States. Such an alien, if otherwise eligible for naturalization, may count the five-year period in the Commonwealth of the Northern Mariana Islands towards time in the United States for purposes of meeting the residence requirements of title III of the Immigration and Nationality Act.*

*''(I) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT IN THE TOURISM INDUSTRY AFTER THE TRANSITION PERIOD ENDS.—*

*''(i) During 2008, and in 2014 if a five year extension was granted, the Attorney General and the United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands and tourism businesses in the Commonwealth of the Northern Mariana Islands to ascertain the current and future labor needs of the tourism industry in the Commonwealth of the Northern Mariana Islands, and to determine whether a five-year extension of the provisions of this paragraph (d)(2) would be necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry. For the purpose of this section, a business shall not be considered legitimate if it engages directly or indirectly in prostitution or any activity that is illegal under Federal or local law. The determination of whether a business is legitimate and whether it is sufficiently related to the tourism industry shall be made by the Attorney General in his sole discretion and shall not be reviewable. If the Attorney General after consultation with the United States Secretary of Labor determines, in the Attorney General's sole and unreviewable discretion, that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry, the Attorney General shall provide notice by publication in the Federal Register that the provisions of this paragraph will be extended for a five-year period with respect to the tourism industry only. The Attorney General may authorize one further extension of this paragraph with respect to the tourism industry in the Commonwealth of the Northern Mariana Islands if, after the Attorney General consults with the United States Secretary of Labor and the Governor of the Commonwealth of the Northern Mariana Islands, and local tourism businesses, the Attorney General determines, in the Attorney General's sole discretion, that a further extension is required to ensure an adequate number of workers for legitimate businesses in the tourism industry in the Commonwealth of the Northern Mariana Islands. The determination as to whether a further extension is required shall not be reviewable.*

*''(ii) The Attorney General, after consultation with the Governor of the Commonwealth of the Northern Mariana Islands and the United States Secretary of Labor and the United States Secretary of Commerce, may extend the provisions of this paragraph (d)(2) to legitimate businesses in industries outside the tourism industry for a single five year period if the Attorney General, in the Attorney General's sole discretion, concludes that such extension is necessary to ensure an adequate number of workers in that industry and that the industry is important to growth or diversification of the local economy.*

*The decision by the Attorney General shall not be reviewable.*

*''(iii) In making his determination for the tourism industry or for industries outside the tourism industry, the Attorney General shall take into consideration the extent to which a training and recruitment program has been implemented to hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such industry. The determination by the Attorney General shall not be reviewable. No additional extension beyond the initial five year period may be granted for any industry outside the tourism industry or for the tourism industry beyond a second extension. If an extension is granted, the Attorney General shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives setting forth the reasons for the extension and whether he believes authority for additional extensions should be enacted.*

*''(e) NONIMMIGRANT INVESTOR VISAS.—*

*''(1) Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), the Attorney General may, upon the application of the alien, classify an alien as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—*

*''(A) has been admitted to the Commonwealth of the Northern Mariana Islands in long-term investor status under the immigration laws of the Commonwealth of the Northern Mariana Islands before the transition program effective date;*

*''(B) has continuously maintained residence in the Commonwealth of the Northern Mariana Islands under long-term investor status;*

*''(C) is otherwise admissible; and*

*''(D) maintains the investment or investments that formed the basis for such long-term investor status.*

*''(2) Within 180 days after the transition program effective date, the Attorney General and the United States Secretary of State shall jointly publish regulations in the Federal Register to implement this subsection.*

*''(3) The Attorney General shall treat an alien who meets the requirements of paragraph (1) as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii) until the regulations implementing this subsection are published.*

*''(f) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IMMIGRATION LAW.—*

*''(1) No alien who is lawfully present in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be removed from the United States on the ground that such alien's presence in the Commonwealth of the Northern Mariana Islands is in violation of subparagraph 212(a)(6)(A) of the Immigration and Nationality Act, as amended, until completion of the period of the alien's admission under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first. Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of such an alien at any time, if the alien entered the Commonwealth of the Northern Mariana Islands after the date of enactment of the Northern Mariana Islands Covenant Implementation Act, and the Attorney General has determined that the Government of the Commonwealth of the Northern Mariana Islands violated subsection (f) of such Act.*

*''(2) Any alien who is lawfully present and authorized to be employed in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be considered authorized by the Attorney General to be employed in the Commonwealth of the Northern Mariana Islands until the expiration of the alien's employment authorization under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first.*

*''(g) TRAVEL RESTRICTIONS FOR CERTAIN APPLICANTS FOR ASYLUM.—Any alien admitted to the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands or pursuant to subsections (c) or (d) of this section who files an application seeking asylum or withholding of removal in the United States shall be required to remain in the Commonwealth of the Northern Mariana Islands during the period of time the application is being adjudicated or during any appeals filed subsequent to such adjudication. An applicant for asylum or withholding of removal who, during the time his application is being adjudicated or during any appeals filed subsequent to such adjudication, leaves the Commonwealth of the Northern Mariana Islands of his own will without prior authorization by the Attorney General thereby abandons the application, unless the Attorney General, in the exercise of the Attorney General's sole discretion determines that the unauthorized departure was for emergency reasons and prior authorization was not practicable.*

*''(h) EFFECT ON OTHER LAWS.—The provisions of this section and the Immigration and Nationality Act, as amended by the Northern Mariana Islands Covenant Implementation Act, shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth of the Northern Mariana Islands relating to the admission of aliens and the removal of aliens from the Commonwealth of the Northern Mariana Islands.*

*''(i) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(a)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED.—No time that an alien is present in violation of the immigration laws of the Commonwealth of the Northern Mariana Islands shall by reason of such violation be counted for purposes of the ground of inadmissibility in section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).*

*''(j) ONE-TIME GRANDFATHER PROVISION FOR CERTAIN LONG-TERM EMPLOYEES.—*

*''(1) An alien may be granted an immigrant visa, or have his or her status adjusted in the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence, without regard to the numerical limitations set forth in sections 202 and 203(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1152, 1153(b)), and subject to the limiting terms and conditions of an alien's permanent residence set forth in paragraphs (C) through (H) of subsection (d)(2), if:*

*''(A) the alien is employed directly by an employer in a business that the Attorney General has determined is legitimate;*

*''(B) the employer has filed a petition for classification of the alien as an employment-based immigrant with the Attorney General pursuant to section 204 of the Immigration and Nationality Act, as amended, not later than 180 days following the transition program effective date;*

*''(C) the alien has been lawfully present in the Commonwealth of the Northern Mariana Islands and authorized to be employed in the Commonwealth of the Northern Mariana Islands for the five-year period immediately preceding the filing of the petition;*

*''(D) the alien has been employed continuously in that business by the petitioning employer for the 5-year period immediately preceding the filing of the petition;*

*''(E) the alien continues to be employed in that business by the petitioning employer at the time the immigrant visa is granted or the alien's status is adjusted to permanent resident;*

*''(F) the petitioner's business has a reasonable expectation of generating sufficient revenue to continue to employ the alien in that business for the succeeding five years; and*

*''(G) the alien is otherwise eligible for admission to the United States under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101, et seq.).*

*''(2) Visa numbers allocated under this subsection shall be allocated first from the number of visas available under paragraph 203(b)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1153(b)(3)), or, if such visa numbers are not available, from the number of visas available under paragraph 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).*

*''(3) The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.*

*''(4) The fact that an alien is the beneficiary of an application for a preference status that was filed with the Attorney General under section 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1154) for the purpose of obtaining benefits under this subsection, or has otherwise sought permanent residence pursuant to this subsection, shall not render the alien ineligible to obtain or maintain the status of a nonimmigrant under this Act or the Immigration and Nationality Act, as amended, if the alien is otherwise eligible for such nonimmigrant status.''.*

*(b) CONFORMING AMENDMENTS.—(1) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended:*

*(A) in paragraph (36), by deleting ''and the Virgin Islands of the United States.'' and substituting ''the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.'', and;*

*(B) in paragraph (38), by deleting ''and the Virgin Islands of the United States'' and substituting ''the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.''.*

*(2) Section 212(l) of the Immigration and Nationality Act (8 U.S.C. 1182(l)) is amended—*

*(A) in paragraph (1)—*

*(i) by striking ''stay on Guam'', and inserting ''stay on Guam or the Commonwealth of the Northern Mariana Islands'',*

*(ii) by inserting ''a total of'' after ''exceed'', and*

*(iii) by striking the words ''after consultation with the Governor of Guam,'' and inserting ''after respective consultation with the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands,'';*

*(B) in paragraph (1)(A), by striking ''on Guam'', and inserting ''on Guam or the Commonwealth of the Northern Mariana Islands, respectively,'';*

*(C) in paragraph (2)(A), by striking ''into Guam'', and inserting ''into Guam or the Commonwealth of the Northern Mariana Islands, respectively,''; and*

*(D) in paragraph (3), by striking ''Government of Guam'' and inserting ''Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands''.*

*(3) The amendments to the Immigration and Nationality Act made by this subsection shall take effect on the first day of the first full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act.*

*(c) TECHNICAL ASSISTANCE PROGRAM.—The United States Secretaries of Interior and Labor, in consultation with the Governor of the Commonwealth of the Northern Mariana Islands, shall develop a program of technical assistance, including recruitment and training, to aid employers in the Commonwealth of the Northern Mariana Islands in securing employees from*

*among United States authorized labor, including lawfully admissible freely associated state citizen labor. In addition, for the first five fiscal years following the fiscal year when this section is enacted, $500,000 shall be made available from funds appropriated to the Secretary of the Interior pursuant to Public Law 104–134 for the Federal-CNMI Immigration, Labor and Law Enforcement Initiative for the following activities:*

*(1) $200,000 shall be available to reimburse the United States Secretary of Commerce for providing additional technical assistance and other support to the Commonwealth of the Northern Mariana Islands to identify opportunities for and encourage diversification and growth of the Commonwealth economy. The United States Secretary of Commerce shall consult with the Government of the Commonwealth of the Northern Mariana Islands, local businesses, the United States Secretary of the Interior, regional banks, and other experts in the local economy and shall assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the Commonwealth economy. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Commerce shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Commerce may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will encourage diversification and growth of the Commonwealth economy. If the United States Secretary of Commerce concludes that additional workers may be needed to achieve diversification and growth of the Commonwealth economy, the Secretary shall promptly notify the Attorney General and the United States Secretary of Labor and shall also notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of his conclusion with an explanation of how many workers may be needed, over what period of time such workers will be needed, and what efforts are being undertaken to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such businesses.*

*(2) $300,000 shall be available to reimburse the United States Secretary of Labor for providing additional technical and other support to the Commonwealth of the Northern Mariana Islands to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, to fill employment vacancies in the Commonwealth of the Northern Mariana Islands. The United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands, local businesses, the College of the Northern Marianas, the United States Secretary of the Interior and the United States Secretary of Commerce and shall assist in the development and implementation of such a training program. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Labor shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Labor may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will assist in such a training program in the Commonwealth of the Northern Mariana Islands.*

*(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF LABOR OPERATIONS.—The Attorney General and the United States Secretary of Labor are authorized to establish and maintain Immigration and Naturalization Service, Executive Office for Immigration Review, and United States Department of Labor operations in the Commonwealth of the Northern Mariana Islands for the purpose of performing their responsibilities under the Immigration and Nationality Act, as amended, and under the transition program. To the extent practicable and consistent with the satisfactory performance of their assigned responsibilities under applicable law, the United States Departments of Justice and Labor shall recruit and hire from among qualified applicants resident in the Commonwealth of the Northern Mariana Islands for staffing such operations.*

*(e) REPORT TO THE CONGRESS.—The President shall report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, within six months after the fifth anniversary of the enactment of this Act, evaluating the overall effect of the transition program and the Immigration and Nationality Act on the Commonwealth of the Northern Mariana Islands, and at other times as the President deems appropriate. The report shall describe what efforts have been undertaken to diversify and strengthen the local economy, including, but not limited to, efforts to promote the Commonwealth of the Northern Mariana Islands as a tourist destination.*

*(f) LIMITATION ON NUMBER OF ALIEN WORKERS PRIOR TO APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED, AND ESTABLISHMENT OF THE TRANSITION PROGRAM.—During the period between enactment of this Act and the effective date of the transition program established under section 6 of Public Law 94–241, as amended by this Act, the Government of the Commonwealth of the Northern Mariana Islands shall not permit an increase in the total number of alien workers who are present in the Commonwealth of the Northern Mariana Islands on the date of enactment of this Act.*

*(g) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section and of the Immigration and Nationality Act with respect to the Commonwealth of the Northern Mariana Islands.*

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the Senate proceed to S. 1052 for opening statements only.

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

Mr. MURKOWSKI. Mr. President, the legislation before the Senate will extend the provisions of the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands for 1 year after the date of enactment of the legislation.

To minimize adverse effects on the local economy, a number of transition provisions have been incorporated in the legislation, including funding for technical assistance to diversify and strengthen the local economy of those islands. The transition period will end December 31, 2009, but the special provisions for employment—employment-based visas—may be extended for legitimate businesses in the tourism industry for not to exceed two 5-year periods and for a single 5-year period for other legitimate business.

I think it is reasonable to question how this situation arose. The Marianas was one district of the old United States Nation's Trust Territory of the Pacific islands, and the United States was the administrating authority. The residents of the Marianas wanted them to become a U.S. territory and obtain local government and U.S. citizenship similar to the neighboring island of Guam. Guam is the southern most of the Mariana Islands and was acquired from Spain back in 1898. The United States and local officials in the Marianas negotiated a covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States. That included all the islands, with the exception of Guam; specifically, Saipan, Tinian, and Rota.

That covenant was approved overwhelmingly in a local United Nations-observed plebiscite and then by this Congress in 1976. The early negotiations assumed the trusteeship would terminate for the Marianas. The agreement was approved and assumed the full extension of Federal immigration laws at the same time the United States sovereignty was extended to the area. When negotiations on other portions of the trust territory stalled and the United States decided not to seek piecemeal termination of the trusteeship, the Marianas justifiably wanted as much of the covenant implemented under the trusteeship as possible. The agreement was to implement these provisions of the covenant that were consistent with the continued status of the area under the trusteeship and defer those provisions that were tied to U.S. sovereignty. One of these provisions was Federal immigration law. That is what we are dealing with today.

It was abundantly clear the United States could extend those laws as soon as the trusteeship was terminated. The report accompanying the joint resolution of approval noted only that we hoped we could include an ''adequate protective provision'' to deal with the concern in the Marianas that their islands could be overrun with immigration.

Had we acted in 1986 to extend Federal immigration laws, we wouldn't be here today. The Marianas economy would not be so captive to the use of temporary contract workers and many of the abuses of workers would not have occurred. On the other hand, the level of prosperity on the islands might not be the same.

What has happened in the Marianas? When the covenant was negotiated, all parties assumed economic development would occur around tourism and anticipated Department of Defense basing in Tinian and Saipan. That followed the pattern in Guam. Tourism did develop; the military activities did not.

Others, however, noticed the unique combination of authorities and moved in to try and take advantage. Because the Marianas had control of immigration, it could set its own minimum

wage and had the ability to import goods into the U.S. Customs territory without duty and labeled that it had been made in the United States, foreign garment operations—especially those from China—sought to locate in the Marianas.

The difficulty of a small island population trying to effectively administer a comprehensive immigration system also led to other abuses in those taking advantage of the situation. Exploiters induced people in Bangladesh to pay enormous amounts of money to go to the Marianas where there were jobs. Other aliens arrived; some of them were not paid. Many alien workers were abused. The Committee on Energy and Natural Resources heard testimony from a young lady who had been brought to Saipan as a minor, forced to perform in a club, and was used for prostitution. The Federal Government has brought a prosecution in that instance on several counts, including trafficking in human beings. This was occurring under the U.S. flag, and supposedly with the protections all U.S. citizens enjoy under our Constitution.

I have a series of charts I will discuss in detail but in deference to my good friend, Senator BINGAMAN from New Mexico, the ranking member of the committee, I defer to him, and then perhaps he can defer back to me. I yield to my good friend and ranking member from New Mexico, Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I appreciate the chairman, Senator MURKOWSKI, yielding.

First, I compliment him and, of course, Senator AKAKA, who is the moving force behind this legislation on the Democratic side. I think this legislation, S. 1052, is a very important and overdue piece of legislation.

I know both Senator AKAKA and Senator MURKOWSKI have worked tirelessly and persistently to bring these issues to our attention. I compliment them on that. I will give a short statement, and then Senator AKAKA will be managing the bill on the Democratic side. I am sure he has much more information to provide on the legislation.

Both Senator MURKOWSKI and Senator AKAKA traveled to the Commonwealth of the Northern Mariana Islands and witnessed the problems there firsthand. I am very glad to join them as a cosponsor on this important piece of legislation. Our committee held several hearings over the years and established a record concerning the very serious problems that exist in the CNMI. Moreover, three successive administrations from both parties, beginning with the Reagan administration, have expressed concerns about the situation in the CNMI. Many problems have been identified, and they have been discussed over many years.

However, clearly the central problem relates to this immigration issue. S. 1052 only addresses immigration. This bill represents a modest step toward implementing the reforms that are long overdue. The current immigration system, administered by the local government, is inconsistent with longstanding U.S. immigration policy in several respects. Let me just detail some of that.

U.S. policy, first of all, does not allow the importation of temporary workers for permanent jobs. Second, it allows people coming into the United States for permanent jobs to have the opportunity to become participating members of society, including the right to vote and to be eligible for citizenship. Local CNMI immigration law not only allows large-scale use of temporary alien workers for permanent jobs, it also prohibits temporary alien workers from settling permanently in the CNMI and becoming U.S. citizens.

The most disturbing result of the CNMI's current immigration system is the documented, consistent and even increasing human rights abuses which these alien workers suffer. Moreover, despite promises of the American dream, alien laborers coming to CNMI often sign contracts waiving rights and freedoms guaranteed to U.S. workers. These include the right to change employers, the right to participate in religious and political activities, and in some cases even the right to marriage.

This bill before us is not a controversial bill. It should not be a controversial bill. It was reported from the Energy and Natural Resources Committee by a voice vote with no dissenting opinions expressed. Last Congress, the committee reported a similar bill. In order to address concerns by the local CNMI government that the bill will adversely affect their economy, the bill also contains many special provisions. Among these special provisions is one that requires the Secretary of Commerce and the Secretary of Labor to provide financial and technical assistance to help them diversify their economy and train local workers.

I hope the Senate will act quickly and pass this bill. I again compliment Senator AKAKA and Senator MURKOWSKI for their leadership on this important matter.

I yield the floor. I know at some point Senator AKAKA wishes to speak to the matter as well.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my good friend and colleague, the ranking member of the Senate Energy and Natural Resources Committee, the Senator from New Mexico, for his comments and for his support.

This legislation was reported unanimously by the Committee on Energy and Natural Resources. S. 1052, as reported by the Committee on Energy and Natural Resources, will extend the provisions of the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands one year after the date of enactment of the legislation. To minimize adverse effects on the local economy, a number of transition provisions have been incorporated in the legislation. The transition period will end on December 31, 2009, but the special provisions for employment based visas may be extended for legitimate businesses in the tourism industry for not to exceed two five-year periods and for a single five-year period for other legitimate businesses.

This legislation is the result of several years work by the Committee, including a visit that I made to the Northern Marianas in February 1996. I was accompanied by Senator AKAKA, who has cosponsored this legislation and was also a cosponsor of legislation that I introduced in the last Congress. This is bipartisan legislation that is long overdue. The administration would prefer a far more draconian approach with a minimum of transition and little economic or training assistance to the Northern Marianas. The Marianas, on the other hand, would prefer that we did nothing. I don't think that either approach is responsible.

There are legitimate concerns by some in the Northern Marianas over what the effect of this legislation may be. We have tried to address those concerns, as I will describe later. For example, one of the ways that the Northern Marianas has tried to deal with the concern over alien workers remaining for indefinite periods without any political rights is to limit the time that any worker can remain in the Marianas. One effect of that approach, however, is to frustrate the ability of employers to recruit, train, and hire personnel. From experience, I can testify that the last thing any employer wants to do is commit resources to training individuals only to have them leave for other employment. It is far worse when the government says that your most valuable employees must not only leave your employ, but must also leave the country. Lynn Knight, the new president of the Saipan Chamber of Commerce, noted that she had one employee who had been with her firm for several years and would have to leave. Another skilled professional could remain since he was a U.S. citizen. Similar situations are likely in other businesses, and I would expect especially in the tourism industry. To deal with that problem, the committee has included a special provision (the new section 6(j) to the Covenant Act) that provides a one-time grandfather provision for long-term employees in legitimate businesses. The provision would allow employers to sponsor current employees who had been employed for five years. If the alien is otherwise eligible for admission to the United States, that employee may be granted an immigrant visa or have his status adjusted to a person lawfully admitted for permanent residence without regard to any numerical limitations in the Immigration Act.

I mention this one provision to illustrate that the committee has tried its best to deal with any legitimate concerns with the legislation and, as in

the case of Ms. Knight, problems with the current local laws. Unfortunately, obtaining specific comments and recommendations has not been the easiest task before the committee. While the Governor has been forthright, the tactics taken by others has been more to obstruct the legislation than to provide useful comments and suggestions. The Governor has lowered the tone of the debate on this issue, although his example has not been followed by others.

I would refer my colleagues to the report of the committee on this legislation for a detailed history on how we arrived at this situation where the United States does not control the terms of entry to its shores, what that exemption turned into, and how we have dealt with legitimate concerns about the long overdue extension of federal legislation.

In brief, however, in 1976, Congress approved a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (PL 94–241). The Covenant formed the basis for the termination of the United Nations Trusteeship with respect to the Northern Mariana Islands. Termination occurred in 1986 for the Commonwealth of the Northern Mariana Islands and for the Republic of the Marshall Islands and the Federated States of Micronesia. Prior to termination, those provisions of the Covenant that were consistent with continued status of the area as part of the Trust Territory were made applicable by the U.S. as Administering Authority. Other provisions (such as the extension of U.S. sovereignty) were not made applicable. Among those laws was the Immigration Act. Had the United States sought piece-meal termination of the trusteeship, as some advocated at the time, or if agreement with the other districts had not proved so elusive, the immigration laws of the United States would have been extended to the Northern Marianas as they applied to Guam. We would not be here today.

The Covenant permitted a unique system in the Commonwealth of the Northern Mariana Islands under which the local government controlled immigration and minimum wage levels and also had the benefit of duty and quota free entry of manufactured goods under the provisions of General Note 3(a) of the Harmonized Tariff Schedules. My colleagues should be aware that these provisions are not subject to mutual consent and can be modified or repealed by the Congress. The section-by-section analysis of the committee report on the Covenant provides in part:

SECTION 503.—This section deals with certain laws of the United States which are not now applicable to the Northern Mariana Islands and provides that they will remain inapplicable except in the manner and to the extent that they are made applicable by specific legislation enacted after the termination of the Trusteeship. These laws are:

The Immigration and Naturalization Laws (subsection (a)). The reason this provision is included is to cope with the problems which unrestricted immigration may impose upon small island communities. Congress is aware of those problems. . . . It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands. . . .

Until termination of the trusteeship, the United States possessed and exercised plenary power, including control over entry into the area. The committee anticipated that by the termination of the Trusteeship, the federal government would have found some way of preventing a large influx of persons into the Marianas, recognizing the constitutional limitations on restrictions on travel, and that we would extend federal immigration laws when we extended United States sovereignty over the area. We neglected to do so.

Upon termination of the trusteeship, the Commonwealth of the Northern Mariana Islands became a territory of the United States and its residents became United States citizens. What transpired thereafter, however, was precisely what we sought to prevent. Because we had not enacted legislation extending federal immigration laws, however, persons were free to enter the Northern Marianas under local law. Although the population of the Commonwealth of the Northern Mariana Islands was only 15,000 people in 1976 when the Covenant was approved, the population (July, 1999) is now estimated at 79,429. The rapid increase in population coincides with the assumption of immigration control by the Commonwealth of the Northern Mariana Islands. According to the most recent statistical survey by the Commonwealth of the Northern Mariana Islands, in 1980, 78 percent of the Commonwealth of the Northern Mariana Islands population were U.S. citizens. That figure had declined to less than 47 percent by 1990 and by 1991, the percentage on Saipan, where most of the population resides, the figure was 42 percent.

The majority of the population resides on Saipan, which is the economic and government center of the Commonwealth of the Northern Mariana Islands. The most recent statistics (March 1999) from the Commonwealth of the Northern Mariana Islands estimate the population of Saipan at 71,790. U.S. citizens are estimated at 30,154 of whom 24,710 are Commonwealth of the Northern Mariana Islands born. There are 41,636 aliens of whom about 4,000 are from the freely associated states. By contrast, in 1980, non-U.S. citizen residents for the entire Northern Marianas totaled only 3,753 of whom 1,593 were citizens of the freely associated states and only 2,160 came from outside Micronesia. There is also a significant population of illegal aliens with estimates ranging from 3,000 to as high as 7,000 illegal aliens.

Whatever the number, with the exception of those from Micronesia, none of these almost 40,000 persons entered under United States law and none has any of the rights of persons who legally enter the United States to work or reside.

Repeated allegations of violations of applicable federal laws relating to worker health and safety, concerns with respect to immigration problems, including the admission of undesirable aliens, and reports of worker abuse, especially in the domestic and garment worker sectors, led to the inclusion of a $7 million set aside in appropriations in 1994 to support federal agency presence in the Commonwealth of the Northern Mariana Islands and increased enforcement of federal laws.

During the 104th Congress, the Senate passed S. 638, legislation reported by the Committee on Energy and Natural Resources and supported by the administration. Concern over the effectiveness of the Commonwealth of the Northern Mariana Islands immigration laws and reports of the entry of organized criminal elements from Japan and China led the committee to include a provision to require the Commonwealth ''to cooperate in the identification and, if necessary, exclusion or deportation from the Commonwealth of the Northern Mariana Islands of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.'' (Sec. 4 of S. 638) No action was taken by the House.

In February, 1996, I visited the Commonwealth of the Northern Mariana Islands with Senator AKAKA and met with local and federal officials. In addition, we inspected a garment factory and met with Bangladeshi security guards who had not been paid and who were living in substandard conditions. As a result of the meetings and continued expressions of concern over conditions, the committee held an oversight hearing on June 26, 1996. We were assured that conditions would improve.

The U.S. Commission on Immigration Reform conducted a site visit to the Northern Marianas in July 1997 and issued a report which in general supported extension of immigration laws. The report found problems in the Commonwealth of the Northern Mariana Islands ''ranging from bureaucratic inefficiencies to labor abuses to an unsustainable economic, social and political system that is antithetical to most American values'' but ''a willingness on the part of some Commonwealth of the Northern Mariana Islands officials and business leaders to address the various problems''.

The report found that:

The Department of Labor and Immigration ''does not have the capacity, nor is it likely to develop one, to prescreen applicants for entry prior to their arrival on Commonwealth of the Northern Mariana Islands territory.'' This leads to the situation of the Bangladeshi workers who arrive and find there is no work as well as to the entry of those with criminal or other disqualifying records. Federal law enforcement officials are mentioned as

not providing information to the Commonwealth of the Northern Mariana Islands due to concerns over security and corruption.

The levels of immigration led to dependence on government employment or benefits for U.S. residents (since cheap foreign labor was available even for specialized trades such as accountants, doctors, and managers) and younger residents having to leave to find work. The report also noted that those on welfare could still hire domestics.

The economy is unsustainable because there will be no advantage for the garment industry when the multifibre agreement comes into force in 2005. My colleagues should note that the perception that the garment industry presence in the Commonwealth of the Northern Mariana Islands is temporary is also shared by others. In September 1997, the Bank of Hawaii concluded that the presence of the garment industry was a result of ''a unique and temporary comparative economic advantage'' and that the Commonwealth of the Northern Mariana Islands should begin to plan for a ''transition to an exclusively tourism-driven economy''. The Bank of Hawaii repeated that conclusion in its October, 1999 report.

Foreign workers are exploited with retaliation against protestors, failure of the Commonwealth of the Northern Mariana Islands government to prosecute, unreliable bonding companies, exorbitant recruitment fees, suppression of basic freedoms, and flagrant abuses of household workers, agricultural workers, and bar girls.

The Commonwealth of the Northern Mariana Islands has entered into agreements with the Philippines and China over State objections dealing with trade and immigration.

The Commonwealth of the Northern Mariana Islands has no asylum policy or procedure placing the U.S. in violation of international obligations.

The temporary guest worker for permanent jobs creates major policy problems as well as creating a two class system where the majority of workers are denied political and social rights. In the U.S. proper, such workers would be admitted for residence and could become citizens. Worse, the children of these workers are U.S. citizens. The children of foreign mothers now account for 16 percent of U.S. citizens.

The presence of a large alien population in the Commonwealth of the Northern Mariana Islands is not simply a matter of local concern. Although temporary workers admitted into the Commonwealth of the Northern Mariana Islands may not enter the United States and their presence in the Commonwealth of the Northern Mariana Islands does not constitute residence for the purpose of obtaining U.S. citizenship, that is not true for their children. Persons born in the Commonwealth of the Northern Mariana Islands obtain U.S. citizenship by birth and eventually will be able to bring their immediate families into the United States. There is an increasing number of births to non-citizen mothers. In 1985, of 675 births, 260 were to non-citizen mothers. While the number of U.S. citizen mothers remained relatively constant, the number of non-citizen mothers increased to 581 by 1990, 701 in 1991, 859 in 1992, and continued around 900–1000 with the exception of 1,409 in 1996. For that year, total births were 1,890 with the percentage of U.S. citizen mothers at 25 percent. While some of the presumed non-citizen mothers are likely to be married to Commonwealth of the Northern Mariana Islands residents, others are not, and all entered outside of federal immigration laws. The result is that there is an increasing number of persons obtaining U.S. citizenship outside the boundaries of U.S. immigration and naturalization laws. There are also incidental effects on various federal programs, such as education, that the children and their immediate relatives will be eligible for.

To the extent that the current Commonwealth of the Northern Mariana Islands immigration system results in structural unemployment among resident U.S. citizens, there are also effects on federal programs providing assistance to the poor. In addition, in recent years, the Commonwealth of the Northern Mariana Islands has doubled its public sector employment to absorb local workers. Public sector wages now represent the largest component of the local budget. Unless the Commonwealth of the Northern Mariana Islands takes action to develop or open private sector employment for U.S. residents, it will have a difficult time reducing its workforce. The recent downturn in the Asian economy has hit the Commonwealth of the Northern Mariana Islands hard and the Commonwealth of the Northern Mariana Islands is facing a significant deficit without the ability to trim its workforce. If layoffs are inevitable, it is likely that local and federal assistance costs will escalate.

Concerns have also arisen over the use of the Northern Marianas for importation and transhipment of drugs. The June 17 Marianas Variety reported the Finance Department's Division of Customs to have confiscated over $2.5 million of crystal methamphetamine in 1998 with an increasing number of drug arrests. A related concern raised by the administration has been the ability of the Commonwealth of the Northern Mariana Islands to exclude individuals, especially members of organized crime from Japan and China. The Commonwealth of the Northern Mariana Islands does not have a data base to screen immigrants, and accomplishes most of its screening on arrival. The federal government, however, for those countries that require visas, does its screening in the foreign country. Federal law enforcement agencies have cited security concerns as a major impediment to sharing information with the Commonwealth of the Northern Mariana Islands government.

Mr. President, this is a situation that should never have been allowed to occur. This is not a matter of local self-government. The control of borders and the conditions for entry, work, residence, and citizenship in the United States are federal matters. No one should ever have expected the Northern Marianas to replicate the resources and capability of the federal government, and in fact we did not. As our committee noted in its report on the Covenant, by the time the Trusteeship ended, we anticipated that federal immigration laws would be extended. We didn't do that and permitted this situation to occur. With the exception of American Samoa, the federal government conducts those activities throughout the United States. We have allowed the creation of a country within a country where the majority of the workforce are denied political and civil rights.

Neither do I accept the argument that economic development is inconsistent with the application of federal immigration laws. With the exception of American Samoa, all other areas of the United States are under federal immigration law. I can assure my colleagues that the constraints on economic development in Alaska are not found in federal immigration law. Neither has federal immigration law been an impediment to the development of economies in the Virgin Islands, Puerto Rico, or Guam. If those areas are not fully to the levels of Stateside economies, they are nonetheless all self-supporting without the need for annual appropriations for government support. The Northern Marianas has a tourism industry and the opportunity for it to expand. There are other opportunities that should be explored, and this legislation contains provisions to assist the Commonwealth government in exploring those options.

Comments have been made that this legislation will destroy the garment industry. That is simply not true unless the industry is adverse to having workers who either are or could become United States citizens. In addition, even the Governor in his testimony said that the garment industry in Saipan was temporary and that they needed to begin to transit to a new economy. The Bank of Hawaii has twice cautioned that the peculiar circumstances that provide an economic advantage in the Marianas will disappear shortly. As the Governor stated, we need to begin the transition now. This legislation will have only a minor effect on the garment industry. The legislation does not go into effect for a year. All contract workers on island can remain for two years or the length of their contract, whichever is less. There is a program to provide permits for temporary alien workers that will gradually be reduced and eliminated by December 31, 2009. All of this extends

well past the time that every legitimate analysis of the Marianas economy indicates that the garment industry will have relocated or severely contracted.

Mr. President, I will list some of the changes that we made in this legislation to address concerns over the effect of the imposition of federal immigration laws. I have already mentioned the special grandfather provision included as a result of Lynn Knight's concern over the status of current employees. These concerns were raised by the Chamber of Commerce or the representatives of the Commonwealth government—the Governor, the President of the Senate, the Speaker of the House, and the Resident Representative.

The legislation limited post-transition relief to only the hotel industry. That has been expanded to include not only legitimate businesses throughout the tourism industry, but all other legitimate businesses in the Commonwealth;

A new statement of policy to guide implementation has been inserted that makes clear that the transition from a non-resident contract worker program is to be orderly and that potential adverse effects are to be minimized;

An explicit recognition of local self-government has been added together with more detailed requirements for consultation with local officials and consideration of their views as well as a straightforward statement that fundamental policy decisions regarding the direction and pace of economic development and growth will be made by local officials and not dictated by the federal government;

Although the legislation limits the ability of the Attorney General to provide additional extension of the temporary worker program to two five-year periods for legitimate businesses in the tourism industry and for a single five-year period for other legitimate businesses, it also requires the Attorney General to notify the Congress of the reasons for the extension and whether we should consider providing additional authority for further extensions;

A detailed technical assistance program is included to assist in the transition and to broaden and strengthen the local economy. In addition to existing authorities and programs, the Secretary of Commerce is provided $200,000 in matching grants to assist in the development and implementation of a process to diversify and strengthen the local economy. The Secretary is to consult not only with local officials, but also with local businesses and regional banks and other experts. The Secretary of Labor is provided an additional $300,000 in matching grants to provide technical and other support for the training, recruitment, and hiring of persons authorized to work in the United States to fill jobs in the Commonwealth. In addition to local officials and businesses, the Secretary is to work with the College of the Northern Marianas and the Secretary of Commerce.

A specific requirement has been included for the federal government to promote the Northern Marianas as a tourist destination.

Numerous technical and other changes have been made in response to the comments that we received, mainly to ensure full and complete consultation with local officials as this legislation is implemented.

I want the record to reflect that I believe that this Governor has attempted to deal with the allegations of worker abuse that have occurred in the Northern Marianas. I think the garment industry has also acted to improve conditions and practices, at least to minimum federal requirement. After all, that is an industry that shipped over $1 billion worth of garments into the United States customs territory last year. By virtue of the exemption from tariffs, they avoided over $200 million in tariffs. Cleaning up conditions is a minor price to pay for that subsidy. Not all problems, however, are capable of resolution. The system where workers are on temporary contract and subject to deportation creates a climate where abuse can occur. Since the workers have no right to remain in the Marianas, their ability to complain is limited. If they have significant recruitment or other fees to repay, they are effectively indentured.

The ability of the Northern Marianas government to respond is also limited. In response to the exploitation of workers from Bangladesh who paid large recruitment fees for non-existent jobs, the Marianas could only ban the importation of workers from that area for those jobs. The exploiters simply moved to Nepal. When the Governor tried to limit workers from China to deal with repatriation problems, however, those industries relying on easy access to those workers quickly brought enough pressure to reverse the decision. Efforts to limit the number of alien workers become more and more difficult as the Marianas government becomes increasingly dependent on those businesses importing those workers for the revenues to provide jobs in the public sector.

Asking the Northern Marianas government to assume and adequately implement and enforce an immigration program within the framework of federal policy is simply setting them up. A central element of federal policy is that permanent jobs are to be filled by permanent workers—persons who may live and reside in the United States, and in the case of aliens, who have the ability to eventually become citizens and full members of the political, social, and economic community. The Marianas does not have that ability. If they allow foreign workers to remain indefinitely, local businesses—such as Lynn Knight's—will prosper. However the workers will not obtain civil and political rights. They may not become United States citizens and they can not enter any other part of the United States. They are trapped. If the Marianas responds, as it did, to limit the length of stay for those workers, then businesses suffer because they can not retain trained workers and the workers themselves suffer.

This is a situation that should never have been allowed to occur. We allowed it to happen, partially through a misplaced idea that we were enhancing local self-government. We now need to act to formally bring the Northern Marianas under the federal system as a part of the United States. We need to let them devote their resources to local concerns rather than having then attempt to replicate federal responsibilities. We need to make the transition as smooth as possible and we need to act to strengthen and diversify the local economy. This legislation as reported unanimously from the Committee on Energy and Natural Resources will do that. It should be enacted promptly.

Mr. President, the effort we are about to proceed with today is a result of a recognition that, indeed, there simply has to be a change in the immigration situation with regard to Saipan and the other islands of the Mariana Islands as a consequence of an effort that began many years ago to encourage development. But clearly the situation ran away with itself over a period of time when the immigration system just got beyond the management capability of the islands.

I have had an opportunity to work with Senator AKAKA on this legislation. I know how sensitive he is because a good deal of his constituency extends a little further out than the Hawaiian Islands into the CNMI. My constituency in Alaska does not quite extend that far. Nevertheless, as chairman of the committee, I have the responsibility to try to bring about corrective action. Through the efforts of Senator AKAKA and his staff and with the help of Senator BINGAMAN and the professional staff of the committee, I think we have been able to achieve that in this legislation.

With the concurrence of Senator AKAKA, I will proceed with the charts. Senator AKAKA is very prominent in some of the charts we are going to be presenting. In some cases I assume he has not seen these pictures yet. I am not suggesting either one of us is particularly photogenic, but we have living proof we were there on the ground and saw the situation as it really does exist.

The first chart I am going to show is a little bit of what has happened over a period of time in the CNMI. It is a chart of population by citizenship.

On the chart, the lower area is the growth in the number of U.S. citizens. That is in blue. You will see back in 1980 it was somewhere in the area of 14,000 or thereabouts. In the upper area is the growth in the number of aliens. Those aliens are primarily Chinese

women coming in and working in the garment business. They come in under a contract for 2 or 3 years. Their living conditions leave a little bit to be desired, but I will go into that a little later.

I do want my colleagues to understand, though, that as we look at the difference in the number of U.S. citizens over a period of time from 1980 to 1999, the growth of that group is relatively modest. But if we look, from 1980 to 1999, at the growth in the number of non-U.S. citizens, we see phenomenal growth. That is a result of these workers coming in and working in sweatshops in a way we would certainly not allow anywhere in the United States.

The population of the Mariana Islands, as I indicated, was about 15,000 in 1976 when the covenant was approved. As of July 1999, that figure has now risen to close to 80,000, as the chart shows.

In 1978, 78 percent of the population were U.S. citizens. By 1990, that figure went down to 47 percent. By 1999, in Saipan where most of the population resides, that figure was down to 42 percent.

With the exception of about 4,000 residents from the freely associated states in Micronesia, there were over 41,000 aliens who entered this portion of the United States outside of our conventional Federal immigration laws because the immigration laws were controlled by the island.

In February of 1996, Senator AKAKA and I, accompanied by a very outstanding group of our professional staff who are with me today, went to visit the islands. Let me give you a little report on what we found. We were not looking for a situation that suggested the immigration was out of control. But in our visit there, and in followup on reports, we did find worker abuse and other problems associated with immigration and labor.

We had an extensive and productive series of meetings during our brief visit. We had an opportunity to meet with the Governor. We were briefed by his various departments on how they were attempting to deal with this situation. We met with law enforcement officials and representatives from the Department of Labor and other agencies. We met with Federal District Court Judge Munson, a very capable Federal judge, and the U.S. attorneys for the area. We met with the leadership of the legislature. We met with various groups, including the Chamber of Commerce and others.

We also visited around the island. We visited garment factories. We met with the workers who heard we were on the island and wanted to convey their concern. Without notice, we met with some of the Bangladeshi security guards. Let me show you what we saw.

Here we are, actually visiting one of the garment factories.

A picture cannot capture the atmosphere, but my colleagues can get some idea of the work. This is a pile of red, what we call gaucho sports shirts. There is quite a pile of them. On the next table, there is another pile. It goes right on down the line.

These women, virtually without exception, are young women who have come over from China on a contract working at these sewing machines and putting these garments together. These are the general types of working conditions and the building.

Behind this working area is their living quarters. The living quarters are pretty rough. We went into some of them. There are four to six women in one room. The beds look like little more than an enlarged children's crib. On the other hand, one has to wonder what kind of conditions they would ordinarily be living in in China. One has to bear that in mind.

This gentleman in red—a different color T-shirt than the pile of shirts—is Senator AKAKA. I am wearing a blue T-shirt. We were going through this factory.

Notice that many of the women do not look up from their machines or even look at strangers, which surprised us. I assume they were told to work, keep their heads down, and mind their own business. Nevertheless, this gives some idea of what is inside one of the garment factories.

There is a barbed wire fence around the barracks where the women live. It is certainly fair to say we would not want to live in those conditions. It was hot. There was air circulating.

I have another picture. Obviously, I had a big dinner that day, so I will not reflect at any great length on that. These are the shirts that are going into various markets in the United States. The extraordinary thing I found is that right at the factory where the garments are put together, not only are the price tags put on but the encoded tag one finds on the garment at sale is put on. When we looked at these labels, we saw the May Company, we saw Hecht's, and a number of noted commercial department stores in the United States.

We found they had a red dot on the other sale items on the garments made in Saipan. Not only are they tagged with the price and the store to which they are going, but this label says ''Made in America,'' and these are made in America because, clearly, Saipan is a territory of the United States. They go in duty free.

Also, these are young women, and this has certain consequences for both the Mariana Islands and the U.S. Federal Government which I am going to mention shortly.

What has attracted this industry, of course, is the availability of workers who come from China on a 3-year contract, and they work very hard. It is a piecemeal-type work. As a consequence, when their turn is to leave, why, there are others who are waiting to come in under contract as well.

We tried to find out terms and conditions under which they were hired, but that is pretty difficult to do. There are those in China who recruit, if you will, and what they get paid to buy a Chinese woman who wants to come over and work is anybody's guess. There seems to be an unlimited supply as these women go back and, in many cases, of course, they have saved a good deal of the money they have made; others perhaps are not so lucky. In any event, we saw other exceptions that were not quite as pleasant.

This is a picture of Senator AKAKA and me in front of what really was a hovel. This is behind one of the major hotels, the Hyatt hotel. There were a series of shacks. This is a gentleman from Bangladesh. He was hired to be a security guard. We found an area where there was no water, no sewer, no electricity. They were heating inside on a kerosene stove. The concern he had is he had not been paid. He had been given checks by his employer, and those checks had been returned for nonsufficient funds. He had three checks.

He said: What am I to do? I work, I am paid, but the checks are no good. I go to the Federal Government representatives on the island, and they are so burdened down with requests such as this that they can't do anything for me; I don't have enough money to go back to my country. What am I to do?

These are people who, obviously, thought they were given an opportunity for a better lifestyle. Clearly, once they arrived there, they found themselves helpless.

This is the exception, not the rule. But there are enough of the exceptions to suggest there is little means for these people to seek relief, to go to their employer, and get paid: Run the check through again next week and maybe there will be money to cover. That is a pretty tough set of circumstances under the American flag.

I refer to another chart on the makeup of the CNMI population by citizenship. If one looks closely at the chart and the growth of populations in the Mariana Islands, one will note the growth rate for U.S. citizens began to rise in roughly 1990. The blue bar is U.S. citizens, and the red bar is the growth of non-U.S. citizens.

There is a ready explanation. If my colleagues will recall, many of the alien contract workers are young women. I have another chart, and this is a chart on infant births. Again, if one looks at the blue from 1985 to 1998, one sees the births by mothers' nationality. The blue represents U.S. citizens and the red is non-U.S. citizens. In 1985, of 675 live births, 260 were to noncitizen mothers. While the number of citizen mothers remains fairly consistent, the number of noncitizen mothers rose to 581 in 1990, 701 in 1991, 859 in 1992, and then continues around 900 to 1,000 thereafter. The exception was 1996 when there were 1,409 recorded live births to noncitizen mothers. Fully 75 percent of all births were to noncitizen mothers.

One might ask: Why are you spending so much time on this statistic? For those who thought these alien contract workers were only temporary and only presented a challenge for the Northern Mariana Islands, reconsider for a moment because every one of these children is a U.S. citizen because that child was born in the United States. As a consequence, at some point in time, undoubtedly, they will come to the United States—either stay in the Mariana Islands or go back to China with the mother and then reenter the United States at a later time because that child is a U.S. citizen.

That is a significant obligation that the United States picks up when it allows this type of immigration—young women coming into these sweatshops, working for a couple of years, and many of them becoming pregnant and those children becoming U.S. citizens. Some of the women are likely married to U.S. citizens.

We do not know the circumstances of all, except for one fact, and that fact is that each of them entered on to U.S. soil outside of our immigration system. They did not come through our immigration system, but they became U.S. citizens anyway.

I have another chart, and this is a chart of employment by private and public sectors. I think it is important that we recognize what we are looking at.

What has this economic boom that has occurred on the islands and access to alien workers at low wages really meant? One thing it has meant is a steady growth in employment.

I think this chart is illuminating. As you can see, in the public sector, virtually all the jobs have gone to U.S. citizens. This is the public sector in blue. What is the public sector? The public sector is government. That is where the U.S. citizens have found their jobs.

Many of the aliens are in the medical and health field. But most of the private-sector jobs go to the aliens. The aliens, of course, are shown on the chart in red as non-U.S. citizens. That is where the growth has been in the private sector.

You probably would not be surprised to know there is a significant difference in wages.

The July 1999 data I have from the Marianas Department of Commerce provides mean-wage data for various sectors of the local economy.

For nondurable goods manufacturing, mean wages were about $2.51 per hour in 1980, $2.94 in 1990, and $2.33 in 1995.

For the same period, in restaurants, mean wages were $2.17 in 1980, $3.84 in 1990, and $3.80 in 1995.

For the public sector, however, mean wages were $4.03 in 1980, $9.20 in 1990, and $11.81 in 1995.

You can see the variance, where the higher wages are in the public sector. What has happened is that the public sector has been forced to expand to provide jobs for local residents and increase the level of wages.

The Governor, when we were over there, noted, and in his testimony later expressed, he was trying to trim the level of government but that it was difficult.

Salaries and related expenses consume over half the budget of the Marianas. They have a carryover deficit of about $70 million, I might add. Even with the growth of the private sector to absorb local residents seeking employment, it is simply not enough.

Let's look at Saipan's unemployment rate by citizenship. This chart shows the unemployment rate by citizenship from 1980. Again, the blue represents U.S. citizens. The red represents non-U.S. citizens. As you can see, in 1980, after approval of the covenant but before the trusteeship ended and the Marianas fully took over immigration, the unemployment rate for U.S. citizens was 3 percent.

By 1990, as immigration began to accelerate and businesses found you could hire foreign labor on short-term contracts, the rate climbed to 5.5 percent. By 1995, even with the significant expansion of the public sector, the rate soared to 13.3 percent.

As you may recall, the use of alien workers was also rising. Now we have 12.6 percent unemployment.

I do not know how the Governor plans to trim the public-sector workforce with that level of unemployment for U.S. citizens, but we wish him well. I know he is very serious about trying to deal with unemployment and the size of the government. This is one of the results, however, of the current immigration system.

What Senator AKAKA and I are proposing is legislation that is bipartisan. It has the support of the administration. As Senator BINGAMAN noted, it was reported out of the committee unanimously. We attempted to address every legitimate concern that the Governor, the Resident Representative, the Speaker of the House, and the President of the Senate from the Marianas raised.

We also met with the business community and other leaders. Throughout, the general approach was to simply oppose the legislation. As a consequence, what we have done is try to make changes to deal with concerns that were raised by those I have mentioned.

Let me briefly go through some of the changes that are in the committee amendment.

First is the grandfathering for existing long-term workers.

One criticism of the current situation in the Marianas is that workers can remain for extended periods—in effect, workers in permanent jobs—and therefore they have no political or civil rights.

Unlike the United States, the Marianas cannot provide for workers to eventually become citizens and enter the community. To respond to that complaint, the Marianas have enacted laws to require all aliens to leave the Commonwealth after a certain timeframe.

One effect of that approach, however, is to frustrate the ability of the employers to recruit, train, and hire personnel. From my experience, I can personally testify that the last thing any employer wants to do is commit resources to training individuals only to have them leave for other employment. It is far worse when the Government says your most valuable employees not only must leave your employ but must also leave the country as well.

The president of the Saipan Chamber of Commerce, Lynn Knight, noted that she had one employee who had been with her firm for several years and would have to leave while another skilled professional could remain since he was a U.S. citizen. Similar situations are likely in other businesses, and I would expect especially in the tourism industry.

To deal with that problem, the committee has included a special provision—this is the new section 6(j) to the Covenant Act—that provides a one-time grandfather provision for long-term employees in legitimate businesses. The provision would allow employers to sponsor current employees who have been employed for 5 years or more.

If the alien is otherwise eligible for admission to the United States, that employee may be granted an immigrant visa or have his status adjusted to a person lawfully admitted for permanent residence without regard to any numerical limitations in the Immigration Act.

This provision would ensure that for those businesses that have long-term employees and want to retain them, this legislation would mean nothing more than their employees would obtain green cards and be authorized to work in the United States. I thank the chamber and Ms. Knight for highlighting this situation because I think this provision will go a long way to ease the transition for legitimate businesses.

Briefly, I will list some of the other changes Senator AKAKA and I made through the hearing process to try to address and accommodate the local concerns of the people there. One is that the legislation limited posttransition relief to only the hotel industry. That has been expanded to include not only legitimate businesses throughout the tourism industry but all other legitimate businesses in the Commonwealth as well.

Further, a new statement of policy to guide implementation has been inserted that makes clear that the transition from a nonresident contract worker program is to be orderly and that potential adverse effects are to be minimized.

An explicit recognition of local self-government has been added together with more detailed requirements for consultation with local officials and consideration of their views.

We have included a straightforward statement, at the request of the Governor, that fundamental policy decisions regarding the direction and pace of economic development and growth will be made by local officials and not dictated by the Federal Government.

Although the legislation limits the ability of the Attorney General to provide additional extension of the temporary worker program to two 5-year periods for legitimate businesses in the tourism industry and for a single 5-year period for other legitimate businesses, it also requires the Attorney General to notify the Congress of the reasons for the extension and whether we should consider providing additional authority for further extensions.

A detailed technical assistance program is included to assist in the transaction and to broaden and strengthen the local economy.

In addition to existing authorities and programs, the Secretary of Commerce is provided $200,000 in matching grants to assist in the development and implementation of a process to diversify and strengthen the local economy. The Secretary is to consult not only with local officials but also with local businesses, regional banks, and other experts. Now the Secretary of Labor is involved. He is to provide an additional $300,000 in matching grants to provide technical and other support for the training, recruitment, and hiring of persons authorized to work in the United States to fill jobs in the Commonwealth. In addition to local officials and businesses, the Secretary is to work with the College of the Northern Marianas and the Secretary of Commerce.

A specific requirement has been included for the Federal Government to promote the Northern Marianas as a tourist destination. The resident representative, Juan Babauta, was very forceful in advocating the need for assistance to diversify and strengthen the local economy and provide training for the workers even absent the legislation. Although he and other officials oppose the legislation, I thank him and the others for their concerns. I think they are well founded, and we have sought to try and deal with them.

I am not going to go into all the reasons why this legislation is needed. I think they were fully laid out in the committee hearings and in our committee report. I do not ever want to see a situation where I have to convene a closed hearing and hear from a young lady who is forced to endure what this particular young lady, coming over from China, was forced to endure. The price of local control over Federal functions should not be measured in lost childhood and innocence.

I am not fully happy with how determined Federal law enforcement personnel are, but I am encouraged by the inclusion of funding in their budgets for the first time because they have been working under extraordinary circumstances of inadequate funds.

The General Counsel for the INS testified in strong support of this legislation. I appreciate the technical assistance of their personnel and the provisions and material they have provided us.

It is probably appropriate to conclude with a few comments on the position of some in the opposition, including control over borders and the conditions to enter the United States, work and reside, and become a citizen. Some suggest these are matters of Federal, not local, law. Well, this is not a matter of local self-government. In fact, by requiring the Marianas to develop and implement an immigration system, we diverted important resources they could have dedicated to important matters of local concern, and seriously harmed local self-government.

Neither do I nor others believe the Marianas cannot have a healthy and diversified economy under Federal immigration laws. They certainly can. The islands of the Marianas have the physical and human resources for tourism, as well as the geographic location for other activities and businesses. We have provided in this bill the training and other assistance we think the Marianas will need.

Yes, there will be some changes, but in the long run, they will be for the better for all the residents of the Marianas, and we will not have under the U.S. flag the sweatshop conditions that exist there today. The only losers will be those who made their fortunes by exploiting the situation and exploiting the workers from China who live in conditions that are absolutely unsuitable and unacceptable under the American flag. It is not a healthy economy when employment is 13 percent for local residents, and the only job opportunities seem to be in the area of local government. The current system is denying opportunities to the youth of the Marianas and will force them to leave home for Guam or other areas to obtain work.

In conclusion, I particularly and personally thank Senator AKAKA, who has been such a strong advocate of reform and has patiently worked with us to make this a better bill. I urge my colleagues to adopt the committee amendment and the legislation. Again, I recognize my good friend Senator AKAKA, who is prepared to make an opening statement at this time.

I yield the floor to Senator AKAKA.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I extend my appreciation to our chairman, Senator MURKOWSKI, for all he has done. He has given an extraordinary and accurate and descriptive report of our visit to CNMI. I will follow with some remarks.

At this time, I yield to my friend from Wisconsin, Senator FEINGOLD, for his remarks, to be recognized after he has concluded.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today because I share the concern of many of my colleagues about the situation in the Commonwealth of the Northern Mariana Islands. I especially thank my colleagues from Alaska and Hawaii for their leadership, and I am very glad this legislation is before us. Allegations of human trafficking, grossly sub-standard working conditions, deceitful recruitment practices, even indentured servitude, must be taken seriously—particularly when these practices are alleged to occur on American soil.

I also rise to highlight some very relevant issues about which I am deeply concerned. As we consider the case of the CNMI, we must recognize that there are other examples of this kind of international exploitation, and that such practices often find their roots in organized crime syndicates that span boundaries, and patterns of corruption that cross borders.

In fact, according to a report issued by the nongovernmental organization, the Global Survival Network, on the situation in the CNMI,

> . . . organized crime groups from the People's Republic of China, South Asia, and Japan reap large profits from human trafficking. Chinese provincial government agencies reportedly collude with Chinese traffickers by pocketing a percentage of passport fees paid by Chinese immigrants. Chinese criminal groups have moved part of their operations to the CNMI, where they operate significant gambling and money-lending operations. Japanese organized crime groups also operate in Saipan, where they control a large part of the sex tourism sector.

Let this be a wake-up call for all of us—international crime is an increasingly disturbing problem, and it is not something that happens only in other parts of the world. This is an issue that I intend to work on in the months ahead.

According to NGO estimates, between 1 million and 2 million women are trafficked each year for the purposes of forced prostitution, many of them from Russia and other parts of Eastern Europe and Central Asia. In 1998, the FBI indicated that, of the Russian crime cases they had investigated abroad, 55 percent involved fraud, 22 percent money laundering, and the rest murder, extortion, and the smuggling of people, arms, and drugs. These kinds of activities are global phenomenon, and the United States is not immune to these forces.

Members of this body are all too familiar with the role of Colombian and Nigerian criminal organizations in the drug trade that casts a shadow over virtually every American community today—including my own hometown.

We have all been alarmed by last year's revelations about the laundering of Russian money through U.S. banks. Recent reports indicate that Poland is overwhelmed in its efforts to combat money laundering schemes—many of which have an international component.

In fact, some 170 Polish gangs have ties with criminal groups abroad. Too often, money-laundering schemes entail the buying-off of corrupt officials, creating a cycle of complicity that undermines the rule of law, stability, and the very legitimacy of government itself.

Few would dispute the fact that corruption played a role in the Asian financial crisis of 1997 and 1998, or that it hampers political, social, and economic development throughout a region that I care deeply about—sub-Saharan Africa, a region where international crime and corruption often go hand-in-hand. The GAO has reported that Americans lose up to $2 billion per year to African-based white collar crime syndicates. In Angola and Sierra Leone, corruption fuels the trade in illicit diamonds, which in turn finances brutally violent conflicts. There can be no doubt that international crime and corruption are critical security issues and economic issues—but there can also be no doubt that they are human rights issues, and social development issues as well.

These patterns will increasingly have an impact on the lives of Americans in this new century, and the manner in which we respond will determine, in part, the degree to which all people of all nations can achieve a better life in the years ahead.

Mr. President, I intend to look more closely at these trends in international crime and corruption in the months ahead.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Hawaii is recognized.

Mr. AKAKA. Madam President, I thank my friend from the State of Wisconsin for his statement. I also thank him for saying what he felt about the CNMI.

I express my gratitude to the majority leader for scheduling this bill today and also the Democratic leader for supporting it. I look forward to working out this bill with my friend, the chairman, Senator MURKOWSKI.

As we begin today's debate, I want to express my sincere thanks to the leadership of the Committee on Energy and Natural Resources for their commitment to CNMI immigration reform. The Senator from Alaska, Chairman MURKOWSKI, and the Senator from New Mexico, Senator BINGAMAN, understand that a great injustice is taking place far from the Nation's Capitol. That is why they have brought this legislation to the Senate floor. Their efforts prove that they live by the words of one of our Senate titans, Daniel Webster, who proclaimed justice the ''great interest of man on earth.''

Perhaps some Senators, and many viewers who are watching these proceedings in the gallery or on television, are wondering, ''Why is the United States Senate—that great deliberative body in the world's strongest democracy—taking time from its busy schedule to debate legislation that affects a distant island community with a population of only 70,000 people?'' You might ask, ''Why don't we work on other important legislation, such as nuclear waste policy, judicial nominations, or health care for our armed forces?''

The answer to these questions is that conditions in the Commonwealth of the Northern Mariana are an affront to democratic values. The answer is that the CNMI immigration system has sparked international protests from our Pacific allies.

Immigration in the Commonwealth violates fundamental standards of morality and human decency. That's why we must pass the reform measure pending in the Senate.

Chairman MURKOWSKI is a longstanding champion of CNMI immigration reform.

He is the only Senator in recent memory to visit the Commonwealth, where he witnessed the profound problems caused by their local immigration law.

I doubt that many of my colleagues know very much about the CNMI, a U.S. Island territory located 1,500 miles south of Tokyo.

Those Senators who are familiar with the territory have probably read the growing number of articles on the immigration and labor abuse in the Commonwealth. Yet only Chairman MURKOWSKI has visited the islands to get a first-hand understanding of their problems. I joined him on his tour of the CNMI in February of 1996.

The statement that was made by the chairman on what we saw there, as I said, is accurate and very descriptive. It was a shame to see that a part of the United States is living under those conditions.

The legislation before us won't correct all of the Commonwealth's problems, but it will address the most significant concern, immigration abuse. Chairman MURKOWSKI is a man of the Pacific who understands the need to have an immigration policy that reflects America values.

The states we represent, Alaska and Hawaii, are closest to our Pacific neighbors, and we recognize the need to respond to problems that generate strong protests from other Pacific nations. I am honored to join him as a cosponsor of S. 1052, legislation to reform immigration abuses in the CNMI.

When the CNMI became a U.S. commonwealth in 1976, Congress granted it local control over immigration at the request of island leaders. This means that the Immigration and Nationality Act does not apply in the CNMI. We now know this decision was a great mistake.

Using its immigration authority, the Commonwealth has created a plantation economy that relies upon wholesale importation of low-paid, short-term indentured workers. Indentured servitude, a practice outlawed in the United States over 100 years ago, had resurfaced in the CNMI.

Foreign workers pay up to $7,000 to employers or middlemen for the right to a job in the CNMI. When they finally reach the Commonwealth, they are assigned to tedious, low paying work for long hours with little or no time off. At night they are locked in prison-like barracks.

If they complain, they are subject to immediate deportation at the whim of their employer.

Some arrive in the islands only to find that they were victims of an employment scam. There are no jobs waiting for them, and no way to work off their bondage debt.

Concern about the CNMI's longstanding immigration problems has historically been bipartisan. In fact, officials in the Reagan administration first sounded the alarm about the runaway immigration policies that the Commonwealth adopted.

The administration of every President in the past 16 years—the Reagan, Bush, and Clinton administrations—has consistently criticized the Commonwealth's immigration policy.

Bipartisan studies have also condemned CNMI Immigration.

The Commission on Immigration Reform called the CNMI system of immigration and indentured labor ''antithetical to American values.'' According to the Commission, no democratic society has an immigration policy like the CNMI.

The closest equivalent is Kuwait, where foreign workers constitute a majority of the workforce and suffer harsh and discriminatory treatment by the citizen population.

For this reason, the CNMI has also become an international embarrassment for the United States.

We have received complaints from the Philippines, Nepal, Sri Lanka, and Bangladesh about immigration abuse and the treatment of workers. They failure of the Commonwealth to reform its immigration system has seriously tarnished our image in the region.

Concerns about the CNMI are not new. Perhaps we should be criticized for not acting sooner. Yet, despite a 14-year effort by the Reagan, Bush, and Clinton administrations to persuade the CNMI to correct immigration problems, the problems persist.

After 14 years of waiting for the Commonwealth to implement reform, it is time for Congress to act. Statistics on Commonwealth immigration provide compelling evidence of the need for reform.

Twenty years ago, the CNMI had a population of 15,000 citizens and 2,000 alien workers.

Today, the citizen population stands at 28,000, but the alien worker population has mushroomed to 42,000. That's a 2,000 percent increase.

The Immigration and Naturalization Service reports that the CNMI has no reliable records of aliens entering the Commonwealth, how long they remain, and when, if ever, they depart. One CNMI official testified that they have

''no effective control'' over immigration in their islands.

The CNMI shares the American flag, but it does not share our immigration system. When the Commonwealth became a territory of the United States, we allowed them to write their own immigration laws.

After twenty years of experience, the CNMI immigration experiment has failed.

Conditions in the CNMI prompt the question whether the U.S. should operate a unified immigration system, or whether a U.S. territory should be allowed to establish laws in conflict with national immigration policy.

Common sense tells us that a unified system is the only answer. If Puerto Rico, or Hawaii, or Arizona, or Oklahoma could write their own immigration laws—and give work visas to foreigners—our national immigration system would be in chaos.

America is one country. We need a uniform immigration system, not one system for the 50 states and another system for one of our territories.

I don't represent the CNMI, but the Commonwealth is Hawaii's backyard. I speak as a friend and neighbor when I say that this policy cannot continue. The CNMI system of indentured immigrant labor is morally wrong, and violates basic democratic principles.

We hope that our colleagues will hear our voices and will join us in passing S. 1052.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. I ask unanimous consent to speak as in morning business.

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

## THE NAVY SUPER HORNET PROGRAM

Mr. FEINGOLD. Mr. President, I have been a long-time critic of the Navy's F/A–18 E/F Super Hornet program. For years, I have come to the floor to highlight this program's shortcomings, and I have offered bills to kill the program and amendments to try to achieve greater scrutiny over the program. Sometimes my colleagues have agreed with me, and more often than not, they have not on this particular issue. I understand that, in all probability, the Super Hornet program will get its final green light this spring, and it will go into full-rate production.

However, I will continue to fight for responsible defense spending and continue to try to enlighten my colleagues about this inferior, unnecessary, and expensive program.

With that in mind, I have asked Secretary Cohen to delay his production decision until he reviews a GAO audit of the Super Hornet program's Operational Evaluation.

I will read an opinion-editorial by Lieutenant Colonel Jay Stout, a highly-regarded, active duty Marine fighter pilot of the F/A–18C, and combat veteran. The Virginian-Pilot published his opinions this past December.

Rear Admiral J.B. Nathman, the Navy's director of air warfare, wrote the requisite, tired response, with a little personal invective thrown in.

A subsequent piece by James Stevenson, a well-known aviation writer, rebuts each of Admiral Nathman's arguments. I will read Stevenson's letter, as well.

I will read the article by Mr. Stout, and I ask unanimous consent that two other articles, plus a December 13, 1999, article from Business Week be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. FEINGOLD. The first article is Mr. Stout's piece from the Virginian-Pilot entitled, ''The Navy's Super Fighter Is A Super Failure.''

The article reads as follows:

I am a fighter pilot. I love fighter aircraft. But even though my service—I am a Marine—doesn't have a dog in the fight, it is difficult to watch the grotesquerie that is the procurement of the Navy's new strike-fighter, the F/A–18 E/F Super Hornet.

Billed as the Navy's strike-fighter of the future, the F/A–18 E/F is instead an expensive failure—a travesty of subterfuge and poor leadership. Intended to overcome any potential adversaries during the next 20 years, the aircraft is instead outperformed by a number of already operational aircraft—including the fighter it is scheduled to replace, the original F/A–18 Hornet.

The Super Hornet concept was spawned in 1992, in part, as a replacement for the 30 year-old A–6 Intruder medium bomber. Though it had provided yeoman service since the early 1960s, the A–6 was aging and on its way to retirement by the end of the Gulf War in 1991. The Navy earlier tried to develop a replacement during the 1980s—the A–12—but bungled the project so badly that the whole mess was scrapped in 1991. The A–12 fiasco cost the taxpayers $5 billion and cost the Navy what little reputation it had as a service that could wisely spend taxpayer dollars.

Nevertheless, the requirement for an A–6 replacement remains. Without an aircraft with a longer range and greater payload than the current F/A–18, the Navy lost much of its offensive punch. Consequently it turned to the original F/A–18—a combat-proven performer, but a short-ranged light bomber when compared to the A–6. Still stinging from the A–12 debacle, the Navy tried to ''put one over'' on Congress by passing off a completely redesigned aircraft—the Super Hornet—as simply a modification of the original Hornet.

The obfuscation worked. Many in Congress were fooled into believing that the new aircraft was just what the Navy told them it was—a modified Hornet. In fact, the new airplane is much larger—built that way to carry more fuel and bombs—is much different aerodynamically, has new engines and engine intakes and a completely reworked internal structure. In short, the Super Hornet and the original Hornet are two completely different aircraft despite their similar appearance.

Though the deception worked, the new aircraft—the Super Hornet—does not. Because it was never prototyped—at the Navy's insistence—its faults were not evident until production aircraft rolled out of the factory. Among the problems the aircraft experienced was the publicized phenomenon of ''wing drop''—a spurious, uncommanded roll, which occurred in the heart of the aircraft's performance envelope. After a great deal of negative press, the Super Hornet team devised a ''band-aid'' fix that mitigated the problem at the expense of performance tradeoffs in other regimes of flight. Regardless, the redesigned wing is a mish-mash of aerodynamic compromises which does nothing well. And the Super Hornet's wing drop problem is minor compared to other shortfalls. First, the aircraft is slow—slower than most fighters fielded since the early 1960s. In that one of the most oft-uttered maxims of the fighter pilot fraternity is that ''Speed is Life,'' this deficiency is alarming.

But the Super Hornet's wheezing performance against the speed clock isn't its only flaw. If speed is indeed life, then maneuverability is the reason that life is worth living for the fighter pilot. In a dog fight, superior maneuverability allows a pilot to bring his weapons to bear against the enemy. With its heavy, aerodynamically compromised airframe, and inadequate engines, the Super Hornet won't win many dogfights. Indeed, it can be outmaneuvered by nearly every frontline fighter fielded today.

''But the Super Hornet isn't just a fighter,'' its proponents will counter. ''It is a bomber as well.'' True, the new aircraft carries more bombs than the current F/A–18—but not dramatically more, or dramatically further. The engineering can be studied, but the laws of physics don't change for anyone—certainly not the Navy. From the beginning, the aircraft was incapable of doing what the Navy wanted. And they knew it.

The Navy doesn't appear to be worried about the performance shortfalls of the Super Hornet. The aircraft is supposed to be so full of technological wizardry that the enemy will be overwhelmed by its superior weapons. That is the same argument that was used prior to the Vietnam War. This logic fell flat when our large, expensive fighters—the most sophisticated in the world—started falling to peasants flying simple aircraft designed during the Korean conflict.

Further drawing into question the Navy's position that flight performance is secondary to the technological sophistication of the aircraft, are the Air Forces' specifications for its new—albeit expensive—fighter, the F–22. The Air Force has ensured that the F–22 has top-notch flight performance, as well as a weapons suite second to none. It truly has no rivals in the foreseeable future.

The Super Hornet's shortcomings have been borne out anecdotally. There are numerous stories, but one episode sums it up nicely. Said one crew member who flew a standard Hornet alongside new Super Hornets: ''We outran them, we out-flew them, and we ran them out of gas. I was embarrassed for those pilots.'' These shortcomings are tacitly acknowledged around the fleet where the aircraft is referred to as the ''Super-Slow Hornet.''

What about the rank-and-file Navy fliers? What are they told when they question the Super Hornet's shortcomings? The standard reply is, ''Climb aboard, sit down, and shut up. This is our fighter, and you're going to make it work.'' Can there be any wondering at the widespread disgust with the Navy's

leadership and the hemorrhaging exodus of its fliers?

Unfortunately, much of the damage has been done. Billions of dollars have been spent on the Super Hornet that could have been spent on maintaining or upgrading the Navy's current fleet of aircraft. Instead, unacceptable numbers of aircraft are sidelined for want of money to buy spare parts. Paradoxically, much of what the Navy wanted in the Super Hornet could have been obtained, at a fraction of the cost, by upgrading the current aircraft—what the Navy said it was going to do at the beginning of this mess.

Our military's aircraft acquisition program cannot afford all the proposed acquisitions. Some hard decisions will have to be made. The Super Hornet decision, at a savings of billions of dollars, should be an easy one.

Again, what I have just been reading for several minutes is an op-ed from Lt. Col. Jay Stout, somebody who actually knows this airplane well.

Now I would like to read a brief letter that rebuts Admiral Nathman's letter, which was in response to Lt. Col. Jay Stout's piece.

In his response to Lt. Col. Jay Stout's Dec. 15 op-ed criticism of the F–18E Super Hornet, Rear Adm. John Nathman accused Stout (letter, Dec. 23) of ''unfounded assertions.''

What this letter then says is:

Nathman claimed that the F–18E has completed ''the most rigorous and scrutinized process of procurement, acquisition and evaluation in recent Department of Defense and naval history.'' On the contrary, the F–18E was initially rejected by the Navy and only rushed into the budget at the last minute when the A–12 was canceled.

In the fall of 1990, the Navy re-examined its requirements for a deep strike aircraft. It dismissed the F–18E as unacceptable in both range and stealth. As to stealth, it concluded that ordnance hanging under the F–18E would provide too good a target on radar.

When then Defense Secretary Richard Cheney canceled the A–12, the Navy pushed the F–18E onto center stage, ignoring regulations that required a new design number for ''major design changes within the same mission category.'' Instead, the Navy gave the new aircraft a new series letter, to make this new aircraft appear as a mere modification. The Navy did this to avoid approximately 25 specific oversight steps.

In so doing, the Navy insured that the F–18E would avoid, from its inception, the ''scrutinized process of procurement, acquisition and evaluation,'' about which Nathman wrote.

The Navy's attempt to minimize oversight extended to the Congress. The Navy flight test director, in October 1996 and March 1997, issued two F–18E deficiency reports. In spite of these reports, the Chief of Naval Operations wrote four months later to the chairman of the Senate National Security Committee as follows:

The F/A–18 E/F has flawlessly progressed through every required milestone to include operational requirements, mission needs, cost and threat analysis, and engine development . . . Testing results have clearly exceeded all specific performance parameters.

Rear Adm. Nathman states that the F–18E has 40 percent more range. Such a statement is misleading. In 1993, the Navy admitted that under the same conditions and weapons loads, the promised range of the F–18E was between 15 and 19 percent less than the original F–18A specification.

It remains for Nathman to provide evidence that the F–18E's performance is now greater than its 1993 promise.

Finally, Nathman complained that Stout wrote his article ''without checking some readily available factual information.'' From what we have seen, even those charged with oversight—our congressmen—cannot obtain ''readily available factual information.'' Stout got his information from sources that are more reliable than the CNO's communication with Congress.

If Stout had continued his investigation, he would have learned that far from pushing ''current technology to its limit,'' the Navy will give future naval aviation—for twice the program unit cost—an airplane that, below 20,000 feet with pylons on, cannot fly supersonic. There is some question as to whether this fact is included within the ''readily available'' information of which Nathman spoke.

Madam President, that is the response of James Stevenson to the Navy's letter questioning Lt. Col. Jay Stout's comments. I offer these as evidence that we are about to embark on an F/A–18E and F airplane that, frankly, after having been looked at for several years, at best is not better than the current plane, and probably is worse, and is enormously more expensive than continuing with the FA–18C and D plane.

EXHIBIT 1

[From the Virginian-Pilot, Dec. 23, 1999]

LOOK AT THE FACTS: THE NAVY'S NEW HORNET IS SUPER INDEED

(By Rear Admiral J.B. Nathman)

It is healthy to bring opposing views forward in open and honest discussion. Unfortunately, this was not the case in a Dec. 15 op-ed column on the F–18E/F Super Hornet. (''The Navy's super fighter is a super failure''). This article was apparently written without checking some readily available factual information.

As the one responsible for establishing naval aviation requirements, I can set the record straight with regard to the performance and warfighting capabilities of the Super Hornet. I would also like to speak for the thousands of individuals, both military and civilian, whose efforts were involved in bringing the Super Hornet's warfighting capability to our Naval Air Force.

The F–18E/F Super Hornet has just completed the most rigorous and scrutinized process of procurement, acquisition and evaluation in recent Department of Defense and naval history. Going into the final evaluation process, the Super Hornet met or exceeded every established performance milestone. The Super Hornet was designed from Day One to be a decisive strike-fighter, equipped to handle the threats and win in today's environment and for the foreseeable future.

Achieving this goal required years of planning and pushed current technology to its limits to obtain the most combat ''bang for the buck'' for the US Navy and American taxpayer. As compared to the current model F–18, proven enhancements include:

40 percent increase in mission combat radius.

50 percent increase in combat on-station time.

Three times the carrier recovery payload—safer carrier operations for our pilots.

Improved survivability, lethality and greater penetration into the enemy's battle space.

Growth potential for future combat enhancements and mission requirements.

In today's environment, the calculus of combat effectiveness is much more than just speed. With its superb combat maneuverability, radar and weapons systems, impressive suite of electronic countermeasures, ability to withstand greater combat damage and increased fuel capacity, the Super Hornet is not only more survivable but three to five times more combat effective than any other naval aircraft in the inventory.

The author's unfounded assertions with regard to performance are simply not borne out by the facts and do not reflect the performance of the combat-ready Super Hornet.

Naval Aviation has made tough but sound choices with the Super Hornet program. Some trade-offs are inevitable and appropriate, particularly in an austere defense budget climate, but this aircraft answers the Navy's needs.

The F/A–18E/F is an outstanding investment for the American taxpayer and will serve as a model for future Navy programs and procurement. The Super Hornet is being delivered on time, on budget and is at the heart of naval aviation's ability to fight and win in the 21st Century.

In the final analysis, hard fact—not innuendo, anecdote or rumor—will establish the operational supremacy of this aircraft. By every measure, Boeing and the Navy's new Hornet are indeed super. The aircraft is in great shape as it completes final evaluation.

Because the Virginian-Pilot is read by thousands of men and women in the naval aviation community, both active-duty and retired, I felt it was my responsibility to respond to a column riddled with inaccuracies.

[From Business Week, Dec. 13, 1999]

THE (NOT SO) SUPER HORNET—WHY THE NAVY IS SPENDING BILLIONS ON A FIGHTER JET WITH FLAWS THAT COSTS TWICE AS MUCH AS ITS PREDECESSOR

(By Stan Crock)

Pentagon analyst Frnaklin C. Spinney remembers the conversation with crystal clarity. Over dinner with a Marine flier in late 1991, talk turned to Navy plans for a new version of the F–18 Hornet. Earlier in the year, the Pentagon had killed the new A–12 bomber. Other Navy planes were decades old. And the service thought existing F/A–18s couldn't fly long-range missions. To fill carrier decks, the Navy decided to rely on an upgrade of the F–18 used by the fabled Blue Angels. ''We've got to have this even if it doesn't work,'' the pilot confided.

How prophetic. On Nov. 16, the F/A–18E/F Super Hornet finished operational-evaluation flights, the last step before full production, set for this spring. And Congress in September approved a five-year, $9 billion authorization for the fighter-attack aircraft, which will cost $47 billion through 2010. But by many accounts, the $53 million-a-copy plane is only slightly better than its predecessor, the F/A–18C/D (table, page 136), which costs half as much. And the E/F's flying performance ''is almost unambiguously a step backward,'' says Spinney.

As a debate rages on Capitol Hill over thee Pentagon's ambitious plans to buy three new aircraft for an astounding $340 billion over the next three decades, Boeing Co.'s Super Hornet has managed to fly under the radar with political, if not technological, stealth. The saga of how it has done so shows just how hard it will be to kill off any of the three: the Super Hornet, the Air Force's F–22 Raptor, and the Joint Strike Fighter. The ingredients of the F/A–18E/F's tale include a Navy anxious not to cede missions to the Air Force, an ailing defense contractor, and lawmakers looking to preserve defense jobs.

The Pentagon and Boeing staunchly defend the program. The E/F won a Pentagon award in 1996 for excellence in engineering and development. And supporters note it's on schedule and under budget. Says Patrick J. Finneran, Boeing's F–18 czar: ''This thing gets gold stars.''

The General Accounting Office, Congress' watchdog agency, begs to differ. It noted in

a June, 1999, report that as full production neared, the plane had 84 deficiencies, including radar that couldn't tell the direction of oncoming threats. It recommended—in vain—that Congress reject a multiyear commitment to the program. Critics say one reason for the Super Hornet's woes is that the Navy dubbed the E/F a modification of its C/D predecessor. That was true even though the E/F has a different wing, fuselage, and engine, and is 25% heavier. About 85% of the wing and airframe components are different from those of the F/A–18C/D, according to an analysis by the Cato Institute, a conservative think tank. All of this led some experts to say it's a new aircraft.

Reeling. But a new plane would have been harder to sell to Congress and wouldn't have been exempt from some lengthy procurement requirements. Most important, St. Louis-based McDonnell Douglas Corp., the F–18's builder, would not have been guaranteed the work. At the time, McDonnell Douglas, which Boeing acquired in 1997, was reeling from cost overruns on other programs and the A–12's termination.

The shorter procurement process for a modification meant McDonnell Douglas didn't have to build a prototype to help iron our kinks. The risks from this approach became apparent in March, 1996, during the Super Hornet's seventh test flight. The plane suddenly started to roll as it approached supersonic speed. A blue-ribbon panel said in a Jan. 14, 1998, report that the wing-drop phenomenon ''could put flight safety at risk.'' And the flaw would make it tough for pilots to track enemy aircraft.

The Navy downplays the issue, saying wing drops had cropped up—and been solved—in previous programs. But fixing the problem proved difficult. One solution—a new wing covering—caused yet another problem: vibrations so severe that pilots had trouble reading the display.

Another shrewd Navy ploy was to lower the bar for performance standards. When the Navy brass debated whether the E/F should be required to turn, climb, accelerate, and maneuver better than the C/D version, Vice Admiral Dennis V. McGinn, then the head of naval air warfare, rejected all but acceleration. A good thing, too, because the E/F doesn't perform so well in the other areas. In a Jan. 19, 1999, memo, Phillip E. Coyle, a top Defense Dept. weapon systems evaluator, says such Russian fighters as the Su-27 and Mig-9 ''can accelerate faster and out-turn all variants of the F/A–18 in most operating regimes.'' The memo says while that's the price for more payload and range, the Navy plans to use air-combat tactics that won't require the capabilities of the earlier F/A–18 models.

Despite efforts to compensate for shortcomings, a July, 1997, report by an advisory board of Pentagon and contractor representatives warned that evaluators may find the plane ''not operationally effective'' even if it meets all requirements. One solution proposed: ''aggressive indoctrination of operational community to help them match expectation to reality of F/A–18E/F.'' Translation: Lower pilots' expectations.

Early on, one of the Super Hornet's key selling points was a project that the plane would fly 40% farther than its predecessor. But the longer-range figure assumed that 80% of the fleet would be one-seater planes. One-seaters carry more fuel than two-seaters and thus can fly farther. But now the Navy wants just 55% of the fleet to be one-seaters. While this lets it replace the ancient F–15 Tomcat—a two-seater—it undercuts the longer-range promises. In actual performance, the one-seater shows a range of 444 nautical miles, only 20% above the older F/A–18C's 369-mile range, the GAO says.

The Navy also says the E/F will have 17 cubic feet more room for high-tech gear than the C/D. But the GAO found only 5.46 cubic feet were usable—and that nearly every upgrade could be installed on the C/D. And the Navy claims that the Super Hornet performs a crucial function better than the C/D: Returning to a carrier with unusual munitions. But critics say it would be cheaper to dump the bombs in the ocean than to pay $30 million extra for the E/F.

Boeing's Finneran disputes the GAO's findings. He says recent tests show the planes have exceeded range goals, and he rejects the notion that the C/D has the space to be upgraded. Still, looking at the broad picture, former National Security Adviser Brent Scowcraft would kill the program because the E/F ''has the least modernization'' of the three new planes under development.

The Super Hornet has plenty of support on Capitol Hill, though. When a House National Security subcommittee threatened funding for the program in 1996, House Minority Leader Richard A. Gephardt of Missouri called every Democrat on the full committee. Representative Jim Talent (R-Mo.) collard his GOP brethren. The funding cuts were restored. Even GOP Presidential hopeful Senator John McCain, who often attacks Pentagon waste, backs the program.

The upshot? The Navy will get its plane, regardless of how it works. But Marine pilots won't fly it. They're waiting for the stealthy Joint Strike Fighter, slated for production around 2008. ''If we were going to spend dollars, we wanted to spend them on something that was a leap in technology,'' says recently retired General Charles C. Krulak, a former Marine commandant who opted not to buy the Super Hornet. Indeed, Marine pilots' fears now are quite different from those Spinney heard in 1991. ''If the Joint Strike Fighter dies,'' frets one airman, ''we're stuck with the Super Hornet.''

WORDS OF WARNING

Official Evaluation—The Operational Test and Evaluation Force ''may find the F/A–18E/F not operationally effective/suitable even though all specification requirements are satisfied'' Translation—This plane may have plenty of problems even if it meets our specs.

Official Evaluation—How to mitigate the problem: ''aggressive indoctrination of operational community to help them match expectation to reality of F/A–18E/F.'' Translation—We oversold this plane and now need to lower pilots expectations.

Mr. FEINGOLD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT—Continued

Mr. MURKOWSKI. Madam President, I ask unanimous consent that there be 1 hour for debate, equally divided, with respect to S. 1052; and, further, no amendments or motions be in order other than the committee substitute and one technical amendment offered by the chairman. I finally ask consent that following the debate time, the bill be read for a third time and passed, and the motion to reconsider be laid upon the table.

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

AMENDMENT NO. 2807

(Purpose: To clarify that visas and admissions under the legislation are not to be counted against numerical limitations in the Immigration and Nationality Act, and for other purposes)

Mr. MURKOWSKI. Madam President, on behalf of Senator AKAKA and myself, I send a series of amendments to the committee substitute to the desk and ask that they be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself and Mr. AKAKA, proposes an amendment numbered 2807.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 29, line 20–21, strike ''regard to'' and insert ''counting against''.

On page 34, lines 7–8, strike ''to be made available during the following fiscal year'' and insert ''that will not count against the numerical limitations''.

On page 34, strike line 15 and all that follows through page 35, line 4.

On page 34, strike ''(C)'' and insert ''(B)''.

On page 35, strike line 20 and all that follows through page 36, line 18.

On page 36, strike ''(E)'' and insert ''(C)''.

On page 37, strike line 3 and all that follows through page 38, line 9.

On page 38, strike line 10 and all that follows through line 24.

On page 39, line 1, strike ''(I)'' and insert ''(D)''.

On page 40, line 6, strike ''and reviewable''.

On page 41, lines 3–6, strike ''The determination as to whether a further extension is required shall not be reviewable.''.

On page 41, lines 20–21, strike ''The decision by the Attorney General shall not be reviewable.''.

On page 42, lines 6–7, strike ''The determination by the Attorney General shall not be reviewable.''.

On page 45, line 16, strike line 16 and all that follows through page 46, line 10.

On page 46, line 11, strike ''(h)'' and insert (g)''.

On page 46, line 20, strike ''(i)'' and insert ''(h)''.

On page 47, line 3, strike ''(j)'' and insert ''(i)''.

On page 47, line 9, strike ''regard to'' and insert ''counting against''.

On page 47, line 14, strike ''(C) through (H)'' and insert ''(B) and (C)''.

On page 48, line 5, strike ''five-year'' and insert ''five-year'' and insert ''four-year''.

On page 48, line 9, strike ''5-year'' and insert ''four-year''.

On page 48, line 18, strike ''five years'' and insert ''four years''.

On page 48, strike line 23 and all that follows through page 49, line 4.

On page 49, line 5, strike ''(3)'' and insert ''(2)''.

On page 49, line 10, strike ''(4)'' and insert ''(3)''.

On page 49, between lines 21 and 22, insert the following new subsection:

''(K) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to count the issuance of any visa to an alien, or the grant of any admission of an alien, under this section toward any numerical limitation contained in the Immigration and Nationality Act.''.

Mr. MURKOWSKI. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 2807) was agreed to.

Mr. MURKOWSKI. I yield back any time to my good friend, Senator AKAKA.

Mr. AKAKA. Madam President, I rise to add a bit to my statement. In my statement, I mentioned that Senator MURKOWSKI was the only Senator who went to CNMI. But Senator HARKIN also went to CNMI in August.

The PRESIDING OFFICER. Is all time yielded back?

Mr. AKAKA. I yield back my time.

Mr. MURKOWSKI. Madam President, how much time is remaining?

The PRESIDING OFFICER. Fifty-nine minutes is remaining.

Mr. MURKOWSKI. Madam President, we yield back all time.

I thank Senator BINGAMAN and his staff, minority staff of the Energy and Natural Resources Committee, for their work in this regard and, of course, my good friend, Senator AKAKA, and his staff.

I thank specifically David Garman, my legislative director; Kira Finkler, who has been working with the minority on this; Chuck Kleeschulte, David Dye, Sam Fowler, and Andrew Lundquist; a former staffer of mine, Deanna Okun, who has taken a position with the Federal International Trade Commission. There are others who have worked long and hard to bring about this much-needed change with regard to immigration in the Marianas, but particularly Senator AKAKA's efforts over an extended period of time to clearly right a wrong. I think this legislation has achieved that today. I commend my good friend.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank Chairman MURKOWSKI, who has done a great job in shepherding and crafting this bill and bringing it to the floor of the Senate. This has been a tough few years because there have been some objections along the way. I think we are doing it correctly. We are taking care of the concern of embarrassment for the United States that would be faced when we pass this bill. This is a bipartisan bill. The chairman has diligently worked, as have staff on both sides of the aisle, well to bring us to this point. I am glad I had a chance to be a part of it and know this is the right thing for our country; that is, for us to pass S. 1052 with its amendments.

I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, before we go into morning business, I alert my colleagues that tomorrow, at approximately 11 o'clock, we will be taking up the nuclear waste bill. Senator BINGAMAN and I have worked hard, as well as our staffs, to try to bring this to some conclusion. I put all of my colleagues on notice that, unfortunately, tomorrow's debate will not be as expeditious as the debate today. Hopefully, we will have resolve that.

The PRESIDING OFFICER. If the Senator will withhold, the committee amendment, as amended, is agreed to.

The bill (S. 1052) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1052

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

**SECTION 1. SHORT TITLE AND PURPOSE.**

(a) SHORT TITLE.—This Act may be cited as the ''Northern Mariana Islands Covenant Implementation Act''.

(b) STATEMENT OF PURPOSE.—In recognition of the need to ensure uniform adherence to long-standing fundamental immigration policies of the United States, it is the intention of Congress in enacting this legislation—

(1) to ensure effective immigration control by extending the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), in full to the Commonwealth of the Northern Mariana Islands, with special provisions to allow for the orderly phasing-out of the nonresident contract worker program of the Commonwealth of the Northern Mariana Islands, and the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth of the Northern Mariana Islands;

(2) to minimize, to the greatest extent possible, potential adverse effects this orderly phase-out might have on the economy of the Commonwealth of the Northern Mariana Islands by:

(A) encouraging diversification and growth of the economy of the Commonwealth of the Northern Mariana Islands consistent with fundamental values underlying Federal immigration policy;

(B) recognizing local self-government, as provided for in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America through consultation with the Governor and other elected officials of the Government of the Commonwealth of the Northern Mariana Islands by Federal agencies and by considering the views and recommendations of such officials in the implementation and enforcement of Federal law by Federal agencies;

(C) assisting the Commonwealth of the Northern Mariana Islands to achieve a progressively higher standard of living for its citizens through the provision of technical and other assistance;

(D) providing opportunities for persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor; and

(E) ensuring the ability of the locally elected officials by the Commonwealth of the Northern Mariana Islands to make fundamental policy decisions regarding the direction and pace of the economic development and growth of the Commonwealth of the Northern Mariana Islands, consistent with the fundamental national values underlying Federal immigration policy.

**SEC. 2. IMMIGRATION REFORM FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

(a) AMENDMENTS TO ACT APPROVING THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA.—Public Law 94–241 (90 Stat. 263), as amended, is further amended by adding at the end thereof the following:

**''SEC. 6. IMMIGRATION AND TRANSITION.**

''(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—Effective on the first day of the first full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act (hereafter the ''transition program effective date''), the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.) shall apply to the Commonwealth of the Northern Mariana Islands: *Provided*, That there shall be a transition period ending December 31, 2009 (except for subsection (d)(2)(D)), following the transition program effective date, during which the Attorney General of the United States (hereafter ''Attorney General''), in consultation with the United States Secretaries of State, Labor, and the Interior, shall establish, administer, and enforce a transition program for immigration to the Commonwealth of the Northern Mariana Islands provided in subsections (b), (c), (d), (e), (f), and (i) of this section (hereafter the ''transition program''). The transition program shall be implemented pursuant to regulations to be promulgated as appropriate by each agency having responsibilities under the transition program.

''(b) EXEMPTION FROM NUMERICAL LIMITATIONS FOR H–2B TEMPORARY WORKERS.—An alien, if otherwise qualified, may seek admission to the Commonwealth of the Northern Mariana Islands as a temporary worker under section 101(a)(15)(H)(ii)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(B)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 U.S.C. 1184(g)).

''(c) TEMPORARY ALIEN WORKERS.—The transition program shall conform to the following requirements with respect to temporary alien workers who would otherwise not be eligible for nonimmigrant classification under the Immigration and Nationality Act:

''(1) Aliens admitted under this subsection shall be treated as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258), or adjustment of status, if eligible therefor, under this section and section 245 of such Act (8 U.S.C. 1255).

''(2)(A) The United States Secretary of Labor shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each temporary alien worker who would not otherwise be eligible for admission under the Immigration and Nationality Act. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, to zero, over a period not to extend beyond December 31, 2009, and shall take into account the number of petitions granted under subsection (i). In no event shall a permit be valid beyond the expiration

of the transition period. This system may be based on any reasonable method and criteria determined by the United States Secretary of Labor to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, taking into consideration the objective of providing as smooth a transition as possible to the full application of federal law.

''(B) The United States Secretary of Labor is authorized to establish and collect appropriate user fees for the purposes of this section. Amounts collected pursuant to this section shall be deposited in a special fund of the Treasury. Such amounts shall be available, to the extent and in the amounts as provided in advance in appropriations acts, for the purposes of administering this section. Such amounts are authorized to be appropriated to remain available until expended.

''(3) The Attorney General shall set the conditions for admission of nonimmigrant temporary alien workers under the transition program, and the United States Secretary of State shall authorize the issuance of nonimmigrant visas for aliens to engage in employment only as authorized in this subsection: *Provided*, That such visas shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except the Commonwealth of the Northern Mariana Islands. An alien admitted to the Commonwealth of the Northern Mariana Islands on the basis of such a nonimmigrant visa shall be permitted to engage in employment only as authorized pursuant to the transition program. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under paragraph (2) have been met.

''(4) An alien admitted as a nonimmigrant pursuant to this subsection shall be permitted to transfer between employers in the Commonwealth of the Northern Mariana Islands during the period of such alien's authorized stay therein, without advance permission of the employee's current or prior employer, to the extent that such transfer is authorized by the Attorney General in accordance with criteria established by the Attorney General and the United States Secretary of Labor.

''(d) IMMIGRANTS.—With the exception of immediate relatives (as defined in section 201(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)) and persons granted an immigrant visa as provided in paragraphs (1) and (2) of this subsection, no alien shall be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands.

''(1) FAMILY-SPONSORED IMMIGRANT VISAS.—For any fiscal year during which the transition program will be in effect, the Attorney General, after consultation with the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, and in consultation with appropriate federal agencies, may establish a specific number of additional initial admissions as a family-sponsored immigrant at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, pursuant to sections 202 and 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152 and 1153(a)).

''(2) EMPLOYMENT-BASED IMMIGRANT VISAS.—

''(A) If the Attorney General, after consultation with the United States Secretary of Labor and the Governor and the leadership of the Legislature of the Commonwealth of the Northern Mariana Islands, finds that exceptional circumstances exist with respect to the inability of employers in the Commonwealth of the Northern Mariana Islands to obtain sufficient work-authorized labor, the Attorney General may establish a specific number of employment-based immigrant visas that will not count against the numerical limitations under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)). The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.

''(B) Persons granted employment-based immigrant visas under the transition program may be admitted initially at a port-of-entry in the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Commonwealth of the Northern Mariana Islands, as lawful permanent residents of the United States. Persons who would otherwise be eligible for lawful permanent residence under the transition program, and who would otherwise be eligible for an adjustment of status, may have their status adjusted within the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence.

''(C) Nothing in this paragraph shall preclude an alien who has obtained lawful permanent resident status pursuant to this paragraph from applying, if otherwise eligible, under this section and under the Immigration and Nationality Act for an immigrant visa or admission as a lawful permanent resident under the Immigration and Nationality Act.

''(D) SPECIAL PROVISION TO ENSURE ADEQUATE EMPLOYMENT IN THE TOURISM INDUSTRY AFTER THE TRANSITION PERIOD ENDS.—

''(i) During 2008, and in 2014 if a five year extension was granted, the Attorney General and the United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands and tourism businesses in the Commonwealth of the Northern Mariana Islands to ascertain the current and future labor needs of the tourism industry in the Commonwealth of the Northern Mariana Islands, and to determine whether a five-year extension of the provisions of this paragraph (d)(2) would be necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry. For the purpose of this section, a business shall not be considered legitimate if it engages directly or indirectly in prostitution or any activity that is illegal under Federal or local law. The determination of whether a business is legitimate and whether it is sufficiently related to the tourism industry shall be made by the Attorney General in his sole discretion and shall not be reviewable. If the Attorney General after consultation with the United States Secretary of Labor determines, in the Attorney General's sole discretion, that such an extension is necessary to ensure an adequate number of workers for legitimate businesses in the tourism industry, the Attorney General shall provide notice by publication in the Federal Register that the provisions of this paragraph will be extended for a five-year period with respect to the tourism industry only. The Attorney General may authorize one further extension of this paragraph with respect to the tourism industry in the Commonwealth of the Northern Mariana Islands if, after the Attorney General consults with the United States Secretary of Labor and the Governor of the Commonwealth of the Northern Mariana Islands, and local tourism businesses, the Attorney General determines, in the Attorney General's sole discretion, that a further extension is required to ensure an adequate number of workers for legitimate businesses in the tourism industry in the Commonwealth of the Northern Mariana Islands.

''(ii) The Attorney General, after consultation with the Governor of the Commonwealth of the Northern Mariana Islands and the United States Secretary of Labor and the United States Secretary of Commerce, may extend the provisions of this paragraph (d)(2) to legitimate businesses in industries outside the tourism industry for a single five year period if the Attorney General, in the Attorney General's sole discretion, concludes that such extension is necessary to ensure an adequate number of workers in that industry and that the industry is important to growth or diversification of the local economy.

''(iii) In making his determination for the tourism industry or for industries outside the tourism industry, the Attorney General shall take into consideration the extent to which a training and recruitment program has been implemented to hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such industry. No additional extension beyond the initial five year period may be granted for any industry outside the tourism industry or for the tourism industry beyond a second extension. If an extension is granted, the Attorney General shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives setting forth the reasons for the extension and whether he believes authority for additional extensions should be enacted.

''(e) NONIMMIGRANT INVESTOR VISAS.—

''(1) Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), the Attorney General may, upon the application of the alien, classify an alien as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien—

''(A) has been admitted to the Commonwealth of the Northern Mariana Islands in long-term investor status under the immigration laws of the Commonwealth of the Northern Mariana Islands before the transition program effective date;

''(B) has continuously maintained residence in the Commonwealth of the Northern Mariana Islands under long-term investor status;

''(C) is otherwise admissible; and

''(D) maintains the investment or investments that formed the basis for such long-term investor status.

''(2) Within 180 days after the transition program effective date, the Attorney General and the United States Secretary of State shall jointly publish regulations in the Federal Register to implement this subsection.

''(3) The Attorney General shall treat an alien who meets the requirements of paragraph (1) as a nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii) until the regulations implementing this subsection are published.

''(f) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IMMIGRATION LAW.—

''(1) No alien who is lawfully present in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of

the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be removed from the United States on the ground that such alien's presence in the Commonwealth of the Northern Mariana Islands is in violation of subparagraph 212(a)(6)(A) of the Immigration and Nationality Act, as amended, until completion of the period of the alien's admission under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first. Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of such an alien at any time, if the alien entered the Commonwealth of the Northern Mariana Islands after the date of enactment of the Northern Mariana Islands Covenant Implementation Act, and the Attorney General has determined that the Government of the Commonwealth of the Northern Mariana Islands violated subsection (f) of such Act.

''(2) Any alien who is lawfully present and authorized to be employed in the Commonwealth of the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the transition program effective date shall be considered authorized by the Attorney General to be employed in the Commonwealth of the Northern Mariana Islands until the expiration of the alien's employment authorization under the immigration laws of the Commonwealth of the Northern Mariana Islands, or the second anniversary of the transition program effective date, whichever comes first.

''(g) EFFECT ON OTHER LAWS.—The provisions of this section and the Immigration and Nationality Act, as amended by the Northern Mariana Islands Covenant Implementation Act, shall, on the transition program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth of the Northern Mariana Islands relating to the admission of aliens and the removal of aliens from the Commonwealth of the Northern Mariana Islands.

''(h) ACCRUAL OF TIME FOR PURPOSES OF SECTION 212(a)(9)(B) OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED.—No time that an alien is present in violation of the immigration laws of the Commonwealth of the Northern Mariana Islands shall by reason of such violation be counted for purposes of the ground of inadmissibility in section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

''(i) ONE-TIME GRANDFATHER PROVISION FOR CERTAIN LONG-TERM EMPLOYEES.—

''(1) An alien may be granted an immigrant visa, or have his or her status adjusted in the Commonwealth of the Northern Mariana Islands to that of an alien lawfully admitted for permanent residence, without counting against the numerical limitations set forth in sections 202 and 203(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1152, 1153(b)), and subject to the limiting terms and conditions of an alien's permanent residence set forth in paragraphs (B) and (C) of subsection (d)(2), if:

''(A) the alien is employed directly by an employer in a business that the Attorney General has determined is legitimate;

''(B) the employer has filed a petition for classification of the alien as an employment-based immigrant with the Attorney General pursuant to section 204 of the Immigration and Nationality Act, as amended, not later than 180 days following the transition program effective date;

''(C) the alien has been lawfully present in the Commonwealth of the Northern Mariana Islands and authorized to be employed in the Commonwealth of the Northern Mariana Islands for the four-year period immediately preceding the filing of the petition;

''(D) the alien has been employed continuously in that business by the petitioning employer for the four-year period immediately preceding the filing of the petition;

''(E) the alien continues to be employed in that business by the petitioning employer at the time the immigrant visa is granted or the alien's status is adjusted to permanent resident;

''(F) the petitioner's business has a reasonable expectation of generating sufficient revenue to continue to employ the alien in that business for the succeeding four years; and

''(G) the alien is otherwise eligible for admission to the United States under the provisions of the Immigration and Nationality Act, as amended (8 U.S.C. 1101, et seq.).

''(2) The labor certification requirements of section 212(a)(5) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(a)(5)) shall not apply to an alien seeking immigration benefits under this subsection.

''(3) The fact that an alien is the beneficiary of an application for a preference status that was filed with the Attorney General under section 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1154) for the purpose of obtaining benefits under this subsection, or has otherwise sought permanent residence pursuant to this subsection, shall not render the alien ineligible to obtain or maintain the status of a nonimmigrant under this Act or the Immigration and Nationality Act, as amended, if the alien is otherwise eligible for such nonimmigrant status.''.

''(j) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to count the issuance of any visa to an alien, or the grant of any admission of an alien, under this section toward any numerical limitation contained in the Immigration and Nationality Act.''.

(b) CONFORMING AMENDMENTS.—(1) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended:

(A) in paragraph (36), by deleting ''and the Virgin Islands of the United States.'' and substituting ''the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.'', and;

(B) in paragraph (38), by deleting ''and the Virgin Islands of the United States'' and substituting ''the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.''.

(2) Section 212(l) of the Immigration and Nationality Act (8 U.S.C. 1182(l)) is amended—

(A) in paragraph (1)—

(i) by striking ''stay on Guam'', and inserting ''stay on Guam or the Commonwealth of the Northern Mariana Islands'',

(ii) by inserting ''a total of'' after ''exceed'', and

(iii) by striking the words ''after consultation with the Governor of Guam,'' and inserting ''after respective consultation with the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands,'';

(B) in paragraph (1)(A), by striking ''on Guam'', and inserting ''on Guam or the Commonwealth of the Northern Mariana Islands, respectively,'';

(C) in paragraph (2)(A), by striking ''into Guam'', and inserting ''into Guam or the Commonwealth of the Northern Mariana Islands, respectively,''; and

(D) in paragraph (3), by striking ''Government of Guam'' and inserting ''Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands''.

(3) The amendments to the Immigration and Nationality Act made by this subsection shall take effect on the first day of the first full month commencing one year after the date of enactment of the Northern Mariana Islands Covenant Implementation Act.

(c) TECHNICAL ASSISTANCE PROGRAM.—The United States Secretaries of Interior and Labor, in consultation with the Governor of the Commonwealth of the Northern Mariana Islands, shall develop a program of technical assistance, including recruitment and training, to aid employers in the Commonwealth of the Northern Mariana Islands in securing employees from among United States authorized labor, including lawfully admissible freely associated state citizen labor. In addition, for the first five fiscal years following the fiscal year when this section is enacted, $500,000 shall be made available from funds appropriated to the Secretary of the Interior pursuant to Public Law 104–134 for the Federal-CNMI Immigration, Labor and Law Enforcement Initiative for the following activities:

(1) $200,000 shall be available to reimburse the United States Secretary of Commerce for providing additional technical assistance and other support to the Commonwealth of the Northern Mariana Islands to identify opportunities for and encourage diversification and growth of the Commonwealth economy. The United States Secretary of Commerce shall consult with the Government of the Commonwealth of the Northern Mariana Islands, local businesses, the United States Secretary of the Interior, regional banks, and other experts in the local economy and shall assist in the development and implementation of a process to identify opportunities for and encourage diversification and growth of the Commonwealth economy. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Commerce shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Commerce may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will encourage diversification and growth of the Commonwealth economy. If the United States Secretary of Commerce concludes that additional workers may be needed to achieve diversification and growth of the Commonwealth economy, the Secretary shall promptly notify the Attorney General and the United States Secretary of Labor and shall also notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of his conclusion with an explanation of how many workers may be needed, over what period of time such workers will be needed, and what efforts are being undertaken to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor to work in such businesses.

(2) $300,000 shall be available to reimburse the United States Secretary of Labor for providing additional technical and other support to the Commonwealth of the Northern Mariana Islands to train and actively recruit and hire persons authorized to work in the United States, including lawfully admissible freely associated state citizen labor, to fill employment vacancies in the Commonwealth of the Northern Mariana Islands. The United States Secretary of Labor shall consult with the Governor of the Commonwealth of the Northern Mariana Islands,

local businesses, the College of the Northern Marianas, the United States Secretary of the Interior and the United States Secretary of Commerce and shall assist in the development and implementation of such a training program. All expenditures, other than for the costs of Federal personnel, shall require a non-Federal matching contribution of 50 percent and the United States Secretary of Labor shall provide a report on activities to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Resources and the Committee on Appropriations of the House of Representatives by March 1 of each year. The United States Secretary of Labor may supplement the funds provided under this section with other funds and resources available to him and shall undertake such other activities, pursuant to existing authorities of the Department, as he decides will assist in such a training program in the Commonwealth of the Northern Mariana Islands.

(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF LABOR OPERATIONS.—The Attorney General and the United States Secretary of Labor are authorized to establish and maintain Immigration and Naturalization Service, Executive Office for Immigration Review, and United States Department of Labor operations in the Commonwealth of the Northern Mariana Islands for the purpose of performing their responsibilities under the Immigration and Nationality Act, as amended, and under the transition program. To the extent practicable and consistent with the satisfactory performance of their assigned responsibilities under applicable law, the United States Departments of Justice and Labor shall recruit and hire from among qualified applicants resident in the Commonwealth of the Northern Mariana Islands for staffing such operations.

(e) REPORT TO THE CONGRESS.—The President shall report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, within six months after the fifth anniversary of the enactment of this Act, evaluating the overall effect of the transition program and the Immigration and Nationality Act on the Commonwealth of the Northern Mariana Islands, and at other times as the President deems appropriate. The report shall describe what efforts have been undertaken to diversify and strengthen the local economy, including, but not limited to, efforts to promote the Commonwealth of the Northern Mariana Islands as a tourist destination.

(f) LIMITATION ON NUMBER OF ALIEN WORKERS PRIOR TO APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED, AND ESTABLISHMENT OF THE TRANSITION PROGRAM.—During the period between enactment of this Act and the effective date of the transition program established under section 6 of Public Law 94–241, as amended by this Act, the Government of the Commonwealth of the Northern Mariana Islands shall not permit an increase in the total number of alien workers who are present in the Commonwealth of the Northern Mariana Islands on the date of enactment of this Act.

(g) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section and of the Immigration and Nationality Act with respect to the Commonwealth of the Northern Mariana Islands.

Mr. MURKOWSKI. I thank the Chair. I compliment the Chair for her diligence and expedience in resolving this CNMI effort that has languished so long in this body. It is nice to see something concluded.

## MORNING BUSINESS

Mr. MURKOWSKI. Madam President, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

## MAKING WORK PAY FOR WORKING FAMILIES

Mr. BAYH. Madam President, I rise today to speak in support of increasing the minimum wage. I am aware that the bankruptcy reform bill that we recently passed in this chamber contains an amendment that will increase the minimum wage by $1 over a three-year period. While I voted for passage of the final bill, the minimum wage amendment it contained was constructed in a way that is sure to draw a Presidential veto, thereby endangering not only a wage increase for working families but also the months of work that all of us have put into reforming our bankruptcy laws.

The amendment that the bill contained was deeply flawed. I hope that the amendment will be stripped in conference so that we can send a bankruptcy reform bill to the President that he will sign. Then, perhaps we can move forward on a real increase in the minimum wage, perhaps in a package that contains some meaningful tax cuts for small business.

Madam President, we are living in a time of unprecedented economic prosperity. A few days ago, we reached an important milestone: We are now enjoying the longest economic expansion in our nation's history. Economic growth has been so strong that in 17 of the last 24 quarters, real GDP grew at a rate of three percent or more. Innovation, productivity, and fiscal discipline have all contributed to this expansion. Unemployment is at historic lows, real wages are increasing for many, and we have replaced welfare with work in record numbers.

But not everyone is realizing the prosperity many have enjoyed. While many workers in the economy have enjoyed sizeable raises, those workers at the bottom are still working hard just to make ends meet. Consider a minimum wage worker, working 40 hours a week. We want this worker to stay off of welfare, to be a responsible citizen and contribute to society, yet the minimum wage of $5.15 an hour allows this worker to earn just $10,700—nearly $3,000 below the poverty level for a family of three. Add to this the fact that most of these workers receive no pension or paid vacation, few receive child care, and many lack employer-provided health insurance. There is no question that it is very difficult in our society to be a worker at the very bottom of the income scale.

It is important that we recognize the contributions that these workers make to our economy and our society, and that we act to ensure that the purchasing power of their income does not erode over time. Today's minimum wage is more than 20 percent lower in real terms than it was in 1979. The proposed increase to $6.15 simply restores the minimum wage back to its purchasing power in 1982. Would any of us deny that it's just as tough, or tougher, for a low-income family to make ends meet today as it was in 1982?

Raising the minimum wage by $1 an hour will directly help more than 11 million workers and their families, as well as the millions more earning between the current minimum of $5.15 and the new minimum of $6.15 who will also see their wages rise. It will reward the responsibility of these workers with a more living wage. It will send the message that we understand that being a member of the ''working poor'' is one of the toughest places to be in America, with obstacles to reaching the middle class turning up at every turn. Raising the minimum wage would reduce one such obstacle. Nearly 200,000 workers in Indiana would benefit directly from a minimum wage increase.

Some argue that raising the minimum wage will lead to higher unemployment. I am happy to say that has not been the case in Indiana. Since September 1996, the last time the Senate passed a minimum wage increase, 133,000 new jobs have been created in my home state. Unemployment has dropped by 26 percent and now stands at 2.9 percent, significantly lower than the national average.

The good news in this debate is that it appears we all agree the minimum wage should be increased. We have our differences over the timing but by and large both Republicans and Democrats realize it is time to make work pay.

The bad news is that there is a poison pill buried in this legislation. At the same time that they seek to raise the take home pay of working families, the Republican minimum wage proposal contains a provision that could reduce the wages of approximately 73 million American workers who are eligible to receive overtime pay.

This overtime pay repeal provision would allow employers to eliminate the requirement that bonuses, commissions, and other forms of compensation based on productivity, quality and efficiency be part of a worker's ''regular rate'' of pay for purposes of calculating overtime pay. Eliminating this provision, and allowing bonuses to be excluded from overtime pay, would nullify the purposes for which the Fair Labor Standards Act was created. Employers would be provided an incentive to slash hourly pay rates or reduce the number of new jobs they create. Such cynical actions explain why so many Americans are frustrated with politics.

Raising the minimum wage is something that most Americans regard as fair, given our economic prosperity, and 75 to 80 percent support an increase in every opinion poll. Yet some refuse

to act in a way that genuinely responds to this concern. What's more, the bill in its current form will almost certainly provoke a presidential veto.

Madam President, we have been down this road before. Both sides agree on an issue that needs to be addressed and then allow a partisan squabble to prevent us from getting it done. The American people did not send us here to spend all of our time arguing over our differences. They sent us here—and I came here—to find the common ground on which we agree.

Now that the bankruptcy reform bill has passed the Senate, I urge my colleagues to work these issues out in conference. Let's begin the year focused not on what divides us but what unites us in the interests of America's working families.

Madam President, I want to also take a moment to discuss the Hatch Amendment that is now part of this legislation. While I believe that the methamphetamine provisions of this amendment are good and something I could support, I voted against this amendment last year for I do not support the voucher language contained in this amendment. I do not support diverting needed resources from our public schools for voucher proposals. Deserting our public schools is not the answer to the problem. I believe we need greater flexibility and greater accountability in our nation's schools. This voucher language is of great concern to me. I sincerely hope that my colleagues will do the right thing and remove the voucher language from this bill during conference.

## SAVINGS FOR WORKING FAMILIES ACT OF 2000

Mr. ABRAHAM. Madam President, this week, I joined with my good friends, Senator LIEBERMAN and Senator SANTORUM, to introduce the Savings for Working Families Act of 2000. This important legislation would enable low-income working Americans to increase their savings and build assets, thus allowing them to enter and become a contributing part of America's economic mainstream and benefit from its unprecedented period of economic growth.

Right now, despite the fact that the net worth of American families has increased dramatically over recent years, the net worth of families with incomes below $25,000 per year has actually decreased. As many as 20 percent of American families are ''unbanked''—meaning that they do not have either a checking or a savings account.

This disparity has had a severe and damaging affect not only on the ability of lower-income Americans to obtain financial assets but it has drastically reduced the chances of the working poor to achieve upper, or even middle class status. Even more distressing is the impact this disparity has had on children and minorities: one-third of all American households, and 60 percent of African-American households, have zero or negative net financial assets and 40 percent of all white children, and a staggering 73 percent of all Black children, grow up in households with zero or negative net financial assets.

The lack of financial assets creates almost insurmountable obstacles against purchasing a home, starting a small business or investing in a post-secondary education—all investments which would enable these families to better their economic status and fully participate in the American dream, a dream which should be available to all American's willing to put forth the effort and initiative.

And, Madam President, providing economic opportunity to all Americans is not only the right thing to do morally, but it is the right thing to do economically. Not only will this legislation empower our lower-income working Americans but it will benefit the entire society in the form of new businesses, new jobs, increased earnings, greater tax revenue, reduced welfare expenditures and a higher national savings rate. Case-in-point, Mr. President, IDAs yield over $5 for every $1 invested.

Simply put, Madam President, without productive assets such as a home, a college education or a business upon which to build a successful financial future, the working poor may continue to work but they will also continue to remain poor.

The legislation we are introducing today, the Savings for Working Families Act of 2000, recognizes the need to invest in the working poor: empower them with the ability to build assets, own a piece of their neighborhood and achieve wealth.

Specifically, this legislation would establish Individual Development Accounts for poorer Americans, through which account holders can deposit any discretionary earned income and their Earned Income Tax Credit refund and have up to $500 of their savings matched, each year, by a financial institution. A tax credit would be made available to financial institutions and for investment in qualified non-profits administering qualified IDA programs, in order to provide incentives to match, dollar-for-dollar, IDA account savings, up to $500 per person per year.

In order to promote asset building, the matched savings accounts would be restricted to buying a first home, receiving post-secondary education or training, or starting a small business. In addition, account holders would participate in classes designed to increase their financial literacy and better prepare them for full and successful participation in the mainstream economy.

Madam President, I am also pleased to note that Congress has already recognized the important contributions that IDAs make to our communities and our economy in several important ways. In 1996, Congress included in the 1996 welfare overhaul law, a provision allowing states to include IDAs in their Temporary Assistance to Needy Families (TANF)—welfare-to-work—plans. Since then, 28 states have included IDAs in their state TANF plans, 27 states have passed some form of IDA legislation, and five more states have IDA legislation pending. In addition, Congress established the Assets for Independence Act in 1998, which provided $125 million over 5 years for IDA demonstration programs. This Act is expected to reach an additional 30,000 to 40,000 working-poor Americans by 2003.

Last summer, the Senate tax bill included a provision, similar to this bill, which would also have established tax incentives to encourage financial institutions to match the savings of lower-income account holders. I feel privileged to have voted for the tax bill, which included many pro-family and pro-community provisions such as the establishment of the Individual Development Accounts.

Lastly, I am proud to be the lead sponsor of comprehensive bi-partisan and bi-cameral community development and renewal legislation, the American Community Renewal Act, which includes IDAs as a means by which communities can help themselves. Please allow me to take this opportunity and thank Senators LIEBERMAN and SANTORUM for their continued support and effort of IDAs and the American Community Renewal Act.

In closing, Madam President, the Savings for Working Families Act of 2000 provides a common sense long-term solution by providing working lower-income Americans the education and the tools by which they gain the financial know-how necessary to succeed in today's economy.

It is important to recognize that achieving family development, neighborhood revitalization and community resurgence begins by empowering people to help themselves—this legislation provides this opportunity. I am looking forward to working with my colleagues this session to ensure the passage of the Savings for Working Families Act into law.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business Friday, February 4, 2000, the Federal debt stood at $5,691,096,297,325.05 (Five trillion, six hundred ninety-one billion, ninety-six million, two hundred ninety-seven thousand, three hundred twenty-five dollars and five cents).

One year ago, February 4, 1999, the Federal debt stood at $5,584,640,000,000 (Five trillion, five hundred eighty-four billion, six hundred forty million).

Fifteen years ago, February 4, 1985, the Federal debt stood at $1,672,705,000,000 (One trillion, six hundred seventy-two billion, seven hundred five million).

Twenty-five years ago, February 4, 1975, the Federal debt stood at

$487,665,000,000 (Four hundred eighty-seven billion, six hundred sixty-five million) which reflects a debt increase of more than $5 trillion—$5,203,431,297,325.05 (Five trillion, two hundred three billion, four hundred thirty-one million, two hundred ninety-seven thousand, three hundred twenty-five dollars and five cents) during the past 25 years.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT TO THE CONGRESS ON THE NATIONAL EMERGENCY WITH RESPECT TO TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS—MESSAGE FROM THE PRESIDENT—PM 83

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 7, 2000.*

## REPORT TO THE CONGRESS ON THE FISCAL YEAR 2001 BUDGET—MESSAGE FROM THE PRESIDENT—PM 84

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations and the Budget.

*To the Congress of the United States:*

The 2001 Budget, which I am submitting to you with this message, is the fourth balanced budget of my Administration. This budget upholds my policy of fiscal discipline and promises new opportunity for our Nation.

We have made great progress in the last seven years, rejecting the fiscal disarray of an earlier era and in its place, asserting a steadfast commitment to live within our means, balance the budget, and uphold fiscal discipline. As a result, we have created the conditions for unprecedented prosperity. The longest peacetime economic expansion in American history has produced more than 20 million new jobs. Unemployment has hit its lowest level in a generation. Today, more Americans own their own homes than ever before in our Nation's history.

Our success in reversing what once seemed to be uncontrollable growth in the Federal budget deficit has created more than prosperity. We have restored to America a spirit of purpose and confidence. This is a rare moment in history. Few nations are blessed with a combination of economic prosperity and social stability at home and with the security of a relatively peaceful world. It is time to make the most of this moment of promise to extend prosperity to all corners of our Nation.

My first budget of the new century is built upon a commitment to expanding opportunity, promoting responsibility, and building community. It includes my New Markets Initiative, which relies on public and private sector cooperation to spur economic development in areas of our Nation that have not yet fully benefited from this wave of prosperity. It includes an expansion of the Earned Income Tax Credit to lift more hard-pressed working families out of poverty. It expands health insurance coverage to more uninsured low-income children and extends this coverage to their hard-working parents.

Because education is fundamental to creating opportunity, my budget contains resources to prepare the next generation for the future with new and expanded efforts to improve the quality of our schools, prepare our students for college, and make college more accessible. It includes efforts to narrow the digital divide, the gap that separates those who have access to information technology and those who do not, so that all will be equipped with the technological tools they need to succeed. It also includes a science and technology initiative to lay the foundation for new scientific breakthroughs.

This budget responds to the pressing needs of today and builds an America of the future by making our Nation debt free by 2013. To be prepared for the retirement of the baby boom generation, my budget also provides a framework to extend the life of the Social Security and Medicare trust funds, while modernizing Medicare with a needed prescription drug benefit.

This budget uses the same straightforward approach of relying on conservative assumptions, as have all the budgets of my Administration. This conservative approach has built confidence in our budgets, because when unforeseen results have materialized, an inevitable development in forecasting, they have always brought good news. In turn, reversing recent trends, my 2001 Budget builds on the tradition of straightforward budgets to meet the pressing needs of today in a balanced plan that adheres to the principles of fiscal discipline and debt reduction. This budget also maintains a strict set of budget rules upholding our long commitment to fiscal discipline, which has sustained the conditions for our economy to flourish.

The 2001 Budget continues to project that the Federal budget will remain in surplus for many decades to come, provided that a responsible fiscal policy holds course, to foster sustained economic growth. Our challenge now, in this era of surplus, is to make balanced choices to use our resources to meet the pressing needs of today, and the needs of generations to come.

BUILDING ON THE SUCCESS OF OUR FISCAL DISCIPLINE

When I took office in 1993, the current strength of our economy seemed beyond possibility. At that point, both the Federal budget deficit and the national debt had exploded, threatening our economic future. The costs of massive Federal borrowing drove interest rates up, incomes were stagnant for all but the most well off, and the economy had barely grown during the prior four years. The Nation needed a new course, and we worked hard to secure the passage of legislation, with the support of Democrats in Congress, to get the economy moving again.

My three-part economic strategy, built upon reducing the deficit, investing in the American people, and engaging the international economy yielded results. The budget deficit quickly began to drop from its peak of $290 billion, and in 1997, we pressed ahead with our deficit reduction efforts as Congress passed the Balanced Budget Act on a bipartisan basis to finish the job. Four years ahead of schedule, the budget reached balance and is projected this year to produce its third surplus in a row. We have started to pay down the national debt and are on a path to make the Nation debt free by 2013 for the first time since 1835.

Throughout the past seven years, my Administration has been committed to creating opportunity for all Americans, demanding responsibility from all Americans, and strengthening the American community. The crime rate, which had tripled during the previous three decades, continues to fall and crime is down in every region of the Nation. We have reformed the welfare system, and more than seven million Americans in the past seven years have made the transition from welfare to work.

Most of all, the prosperity and opportunity of our time offers us a great responsibility—to take action to ensure that Social Security is there for the elderly and the disabled, while ensuring

that it not place a burden on our children, that the life of Medicare is extended for future generations, and that we modernize Medicare with a needed prescription drug benefit. If we continue to follow sound fiscal policy, we can provide for the future, produce a balanced tax cut and meet the needs of today, while sustaining the conditions that have brought us this current wave of prosperity. All this can be done, but balanced and sound fiscal policy is the key.

IMPROVING PERFORMANCE THROUGH BETTER MANAGEMENT

At the start of this Administration, the Vice President and I set out to create a Government that works better, costs less, and gets results Americans care about. We believe that with better stewardship, the Government can better achieve its mission and improve the quality of life for all Americans. The success of these efforts is reflected in the significant changes of the past seven years in the way Government does business.

We have streamlined Government, cutting the civilian Federal work force by 377,000, giving us the smallest work force in 39 years. We have done more than just reduce or eliminate hundreds of Federal programs and projects. We have also empowered government employees to cut red tape, and used partnerships to get results.

While we have made real progress, there is still much work to do. We are forging ahead with new efforts to improve the quality of the service that the Government offers its customers. My Administration has identified its highest priorities—24 Priority Management Objectives listed in this budget, that will receive heightened attention to ensure positive changes in the way Government works. It is a mark of our success that in early 2000, we were able to remove last year's number one objective from the list: Manage the Year 2000 (Y2K) Computer Problem. Due largely to the efforts of Federal employees and the leadership provided by my Council on Year 2000 Conversion, the Federal Government's Y2K efforts were, beyond all expectation, remarkably trouble free. We will continue to move ahead to address other priorities, including modernizing student aid delivery, implementing IRS reforms, and strengthening the management of Health Care Financing Administration, which oversees Medicare.

I believe the steps we have taken to change and improve the way Government works have also changed the way Americans view their Government, increasing the confidence and trust of the American public. It is our job to keep at this task, so that the Federal Government continues to improve its performance and the American public is better served. I am determined that we will do more to solve the very real management challenges before us.

STRENGTHENING OUR NATION IN THE 21ST CENTURY

Education, in our competitive global economy, has become the dividing line between those who are able to move ahead and those who lag behind. For this reason, I am committed to ensuring that we have a first-rate system of education and training in place for Americans of all ages. Over the last seven years, we have worked hard to ensure that every boy and girl is prepared to learn, that our schools focus on high standards and achievement, that anyone who wants to go to college can get the financial help to attend, and that those who need another chance at education and training, or a chance to improve or learn new skills, can do so. My budget builds on the commitment to make college more affordable by expanding the tax credits for higher education and increasing Pell Grants and other college aid beyond the record levels already reached. It promotes smaller learning environments in high schools and invests in reducing class size by recruiting and preparing thousands more teachers and building thousands more classrooms, as well as providing for urgent and essential school repairs.

My budget includes significant increases to expand access to after-school and other extended learning time opportunities, a central element of my accountability agenda to help children, especially in the poorest communities, reach challenging academic standards while supporting efforts to demand more from schools and support them in return. It promotes efforts to recruit teachers in high-poverty areas and includes a peer review initiative to help school districts raise teacher standards and teacher pay. The budget proposes improving school accountability by holding States, districts and schools accountable for results by providing resources to identify and turn around the worst-performing schools, and incentives to reward States that do the most to improve student performance and close the achievement gap. It invests in programs to help raise the educational achievement of Latino students. And my budget supports efforts to narrow the digital divide by expanding resources for technology centers to make computers accessible in low-income community areas.

During the past seven years, we have taken many steps to help working families, and we continue that effort with this budget. We cut taxes for 15 million working families, provided a tax credit to help families raise their children, ensured that 25 million Americans a year can change jobs without losing their health insurance, made it easier for the self-employed and those with pre-existing conditions to get health insurance, provided access to health care coverage for up to five million uninsured children, raised the minimum wage, and provided guaranteed time off for workers who need to care for a newborn or to address the health needs of a family member.

I am proposing a significant expansion of the Earned Income Tax Credit to provide support to America's hard working, low-income families, especially larger families who are more likely to be poor than families with only one or two children. My budget also significantly increases 21st Century Learning Community Centers and expands after-school learning time. It makes child care more affordable by expanding tax credits or middle-income families and for businesses that provide child care services to their employees, by assisting parents who want to attend college meet their child care needs, as well as making a child care tax credit available to parents who choose to stay at home to raise a young child. My budget proposes to create an Early Learning Fund and builds on our expansion of the successful Head Start program to help meet the goal of serving one million children by 2002. An it promotes responsible fatherhood by proposing tough new measures to ensure that all parents who can afford to pay child support do so, while providing support to increase the employment earnings and child support payments of low-income fathers. My budget includes efforts to increase access to food stamps for the working poor, in part by proposing that low-income working families, who need efficient transportation to get to work, be permitted to own a modest vehicle and retain food stamp eligibility. And, it proposes resources to provide health care to legal immigrant children, to restore Supplemental Security Income benefits to legal immigrants with disabilities, and to restore food stamp benefits to legal immigrants in families with eligible children.

We have continued to improve health care for millions of Americans. Since the establishment of the State Children's Health Insurance Program in 1997, two million children have enrolled in programs across all 50 States. I am proposing a significant expansion of this successful program to extend health coverage to more children in hard working, low-income families. My budget also extends this coverage to their parents, low-income working adults who lack health insurance, which will help increase the enrollment of their children by enabling entire families to receive coverage through the same program. My budget contains other significant incentives to increase access to affordable health care, including tax credits for small businesses and a provision to allow hundreds of thousands of Americans aged 55 to 65 to purchase Medicare coverage.

My budget puts forth a plan that extends Medicare solvency to at least 2025, respects fiscal discipline, and eliminates the national debt. My plan will modernize Medicare with a needed drug benefit, expand access to preventative benefits, and improve Medicare management. I intend to keep pressing ahead and working with Congress to enact essential patient protections including emergency room access and the right to see a specialist. By Executive

Order, I have extended these rights to 85 million Americans covered by Federal health plans, including Medicare and Medicaid beneficiaries and Federal employees.

Most Americans are enjoying the fruits of our strong economy, yet we must do more to bring this prosperity to all corners of our great Nation. We must use this moment of promise to spread the values of community, opportunity, and responsibility, and to help create the conditions for all to share in our prosperity. My New Markets Initiative, an expanded approach built upon the same public-private cooperation at the center of last year's plan, will provide tax credit and loan guarantee incentives to stimulate tens of billions of dollars in new private investment in distressed rural and urban areas. It will build a network of private investment institutions to funnel credit, equity, and technical assistance into businesses in America's untapped markets, and provide the expertise to targeted small businesses that will allow them to use investment to grow. I am also proposing to expand the number of Empowerment Zones, which provide tax incentives and direct spending to encourage the kind of private investment that creates jobs, and to provide more capital for lending through my Community Development Financial Institutions program. My budget also includes significant funding increases for Native American communities to help this generation and future generations receive greater opportunities. It provides additional funds to enforce the Nation's civil rights laws, and strengthens the partnership we have begun with the District of Columbia. In addition, my budget proposes an $11 billion package for farmers in need and to help mend the farm safety net by providing assistance when crop prices are low.

Our anti-crime strategy is working. Serious crime has fallen without interruption, and the murder rate is at its lowest point in three decades. Building on our successful community policing (COPS) program that is helping community fund 100,000 cops on the beat, the 21st Century Policing initiative was enacted last year to put us on track to fund new anti-crime technology and 50,000 more police. This year, I am launching the largest gun enforcement initiative ever, adding funds to hire 500 new ATF agents, 1,000 State and local gun prosecutors and funds for smart gun technology. The budget also provides funds to prevent violence against women, and to address the growing law enforcement crisis on Indian lands. To boost our efforts to control illegal immigration, the budget provides resources to strengthen enforcement, particularly on the Southwest and Northern borders, and to remove illegal aliens. To combat drug use, particularly among young people, my budget expands programs that stress treatment and prevention, law enforcement, international assistance, and interdiction.

During the past seven years, I have sought to strengthen science and technology investments in order to serve many of our broader goals for the Nation in the economy, education, health care, the environment, and national defense. Building on the balanced portfolio of basic and applied research in the 21st Century Research Fund, my budget includes a Science and Technology Initiative which places special emphasis on high-priority, long-term basic research, including nanotechnology, the manipulation of matter at the atomic and molecular level, which offers the promise that medical science may one day be able to detect cancerous tumors when they are comprised of only a few cells. My budget also increases resources for the Information Technology research and development program to invest in long-term research in computing and communications. It will accelerate development of extremely fast supercomputers to support civilian research, enabling experts to develop life-saving drugs, provide earlier tornado warnings, and design more fuel-efficient safer automobiles. The budget provides strong support for the Nation's two largest sources of civilian basic research funding for universities: the National Science Foundation and the National Institutes of Health.

The Nation does not have to choose between a strong economy and a clean environment. The past seven years are proof that we can have both. We have set tough new clean air standards for soot and smog that will prevent up to 15,000 premature deaths a year. We have set new food and drinking water safety standards and have accelerated the pace of cleanups of toxic Superfund sites. We expanded our efforts to protect tens of millions of acres of public and private lands, including Yellowstone National Park, Florida's Everglades, and California's redwoods. Led by the Vice President, the Administration reached an international agreement in Kyoto that calls for cuts in greenhouse gas emissions. My budget significantly expands support for the environment, by establishing dedicated funding and increasing resources for the historic interagency Lands Legacy initiative to preserve the Nation's natural and historic treasures. My budget also supports the Clean Energy initiative to reduce the threat of global warming, and the Greening the Globe initiative to save tropical and other forests around the globe. It provides resources to support farm conservation to upgrade water quality, the Clean Water Action plan to clean up polluted waterways, and climate change technology efforts to increase energy-efficient technologies and renewable energy to strengthen our economy while reducing greenhouse gases.

In the past year, America's leadership was essential to the success of the NATO alliance in halting the ethnic cleansing of Kosovo's ethnic Albanians and containing the risk of wider war at the doorstep of our allies. The United States has played a critical role in the strides made toward lasting peace in Northern Ireland, the Middle East, and Sierra Leone. The United States has worked to detect and counter terrorist threats and continue efforts with Russia and other former Soviet nations to halt the spread of dangerous weapons materials. My budget seeks to build on these efforts, proposing funding to build a democratic society and stronger economy in Kosovo, initiatives to further protect our men and women overseas, and a 2000 emergency supplemental to provide critical assistance to the Government of Colombia in its fight against narcotics traffickers. My budget also proposes funding to promote international family planning, contain the global spread of AIDS, promote debt forgiveness to help people in the world's poorest countries join the global economy, and promote trade by opening global markets.

The Armed Forces of the United States serve as the backbone of our national security strategy. As it did successfully last year in Kosovo, the military must be in a position to protect our national security interests and guard against the major threats to U.S. security. These include regional dangers, such as cross-border aggression; the proliferation of the technology of weapons of mass destruction; transnational dangers, such as the spread of illegal drugs and terrorism; and, direct attacks on the U.S. homeland from intercontinental ballistic missiles or other weapons of mass destruction. To ensure that the military can fulfill this mission, I made a major commitment last year to maintain our military readiness, which this budget builds upon with additional resources to ensure that the services can meet required training standards, maintain equipment in top condition, recruit and retain quality personnel, and procure sufficient spare parts and other equipment. To help improve the quality of life and strengthen the Department's ability to attract and retain quality individuals, this budget includes a major initiative to reduce servicemembers' out-of-pocket costs for off-base housing. In addition, this budget provides resources for the Department of Defense and other agencies to combat emerging threats, including terrorism and weapons of mass destruction, and to provide for critical infrastructure protection. It provides funds to support counter-narcotics efforts, including a 2000 supplemental to increase assistance to the Government of Colombia in their fight against narcotics traffickers. It also provides additional funding for contingency operations in Southwest Asia, Bosnia, and Kosovo.

BUILDING PROSPERITY FOR THE FUTURE

This is a rare moment in American history. Never before has our Nation enjoyed so much prosperity, at a time when special progress continues to advance and our position as the global leader is secure. Today, we are well

prepared to make the choices that will shape our Nation's future for decades to come.

By reversing the earlier trend of fiscal irresponsibility, balancing the budget, and producing a historic surplus, we have restored our national spirit and produced the resources to help opportunity and prosperity reach all corners of this Nation. We have it within our reach today, by making the right choices, to offer the promise of prosperity to generations of Americans to come. If we keep to the path of fiscal discipline, we can build a foundation of prosperity for the Nation's future.

My plan to extend the solvency of Social Security and Medicare allows the United States to become debt-free in the next 13 years, for the first time since 1835, Eliminating the debt will strengthen our economy, devote resources to Social Security, and prepare us to meet the challenges of the aging of America. Through fiscal discipline and wise choices we can extend the life of Social Security to the middle of the century, extend the solvency of Medicare until 2025, and modernize Medicare with a needed prescription drug benefit.

By continuing to maintain discipline, we can provide for the aging of America and for the investments of the future—including education, the environment, research and development, and defense—which are central to our economic growth, health, and national security. By making choices that respect fiscal discipline, we can make room to provide both for a balanced tax cut and for investments that will help this Nation stay strong in the future.

This new century is filled with promise, for we live at a remarkable time. By making wise choices, we have it within our power to extend the same promise and prosperity to generations to come.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 7, 2000*.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7355. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the management response to the Inspector General's report for the six months ended September 30, 1999, and the report required by the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–7356. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the transfer of the battleship ex-New Jersey to the Home Port Alliance of Camden, NJ; to the Committee on Armed Services.

EC–7357. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: All Industries-Cafeteria Plan/Qualified Retirement Plan Hybrid Arrangement'' (UIL–125.05–00), received February 1, 2000; to the Committee on Finance.

EC–7358. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to the DoD annual audit of the American Red Cross; to the Committee on Health, Education, Labor, and Pensions.

EC–7359. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Aluminum in Large and Small Volume Parentaerals Used in Total Parenteral Nutrition'' (RIN0910–AA74), received February 3, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–7360. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for December 1999; to the Committee on Governmental Affairs.

EC–7361. A communication from the Director, National Counterintelligence Center transmitting, pursuant to law, the annual report for fiscal year 1999; to the Committee on the Judiciary.

EC–7362. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''FY 2000 UST Grant Guidance (AL)'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7363. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''FY 2000 UST/LUST Program Grant Guidance'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7364. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''FY 99 N/A UST/LUST Program Grant Guidance'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7365. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Grant Guidance for Fiscal Year 2000'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7366. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Public Water System Supervision Program Generic Grant Workplan Guidance'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7367. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Wetlands Grants 2000—Call for Proposals'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7368. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Wetlands Grants 2000—Grants Guidance'', received January 24, 2000; to the Committee on Environment and Public Works.

EC–7369. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL # 6532–7), received February 2, 2000; to the Committee on Environment and Public Works.

EC–7370. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Guidance on Monitoring and Reporting Requirements for Class II–D and II–R Injection Wells Underground Injection Control Program''; to the Committee on Environment and Public Works.

EC–7371. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis in Cattle and Bison; State Designations; California, Pennsylvania, and Puerto Rico'' (Docket # 99–063–2), received February 3, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7372. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands'', received February 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7373. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Pollock in the Gulf of Alaska'', received February 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7374. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska-Modification of a Closure (opens directed fishing for pollock by catcher vessels that are nonexempt under the American Fisheries Act in Statistical Area 610 and the Shelikof Strait)'', received February 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7375. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska-Closure (closes directed fishing for pollock in Statistical Area 630 outside the Shelikof Strait conservation area in the Gulf of Alaska'', received February 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7376. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Model

Hawker 1000 Airplanes; Docket No. 99–NM–156 [11–12/11–18]'' (RIN2120–AA64) (1999–0440), received November 19, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7377. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT8D–200 Series Turbofan Engines; Docket No. 99–NE–32 [12–21/12–23]'' (RIN2120–AA64) (1999–0535), received December 23, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7378. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT8D–209, –217, –217A, –217C, and –219 Series Turbofan Engines; Docket No. 98–ANE–80 [12–29/1–3]'' (RIN2120–AA64) (1999–0544), received January 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7379. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D–TR4 Series Turbofan Engines; Correction; Docket No. 99–NE–06 [11–18/11–22]'' (RIN2120–AA64) (1999–0463), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7380. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines; Docket No. 95–ANE–69 [11–19/11–22]'' (RIN2120–AA64) (1999–0474), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7381. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines; Docket No. 98–ANE–47 [1–19/1–20]'' (RIN2120–AA64) (2000–0029), received January 24, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7382. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB SF340A, 340B, and 2000 Series Airplanes; Docket No. 99–NM–148 [11–22/11–22]'' (RIN2120–AA64) (1999–0466), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7383. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB SF340A, 340B Series Airplanes; Docket No. 99–NM–200 [1–4/1–6]'' (RIN2120–AA64) (2000–0001), received January 6, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7384. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes; Docket No. 99–NM–150 (11–22/11–22)'' (RIN2120–AA64) (1999–0467), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7385. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes; Docket No. 99–NM–219 [1–27/1–27]'' (RIN2120–AA64) (2000–0045), received January 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7386. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls Royce Limited Dart Series; Docket No. 99–NE–30 [12–29/1–3]'' (RIN2120–AA64) (1999–0542), received January 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7387. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BMW Rolls-Royce GmbH Models BR700–710A1–10 and BR700–710–20 Turbofan Engines; Request for Comments; Docket No. 98–ANE–74 [11–19/11–22]'' (RIN2120–AA64) (1999–0459), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7388. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS–350B, B1, B2, B3, BA, and D, and AS–355E, F, F1, and N Helicopters; Request for Comments; Docket No. 99–SW–41 [11–30/12–2]'' (RIN2120–AA64) (1999–0493), received December 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7389. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter Deutschland GmbH Model EC 135 P1 and EC 135 T1 Helicopters; Request for Comments; Docket No. 99–SW–74 [1–25/1–27]'' (RIN2120–AA64) (2000–0040), received January 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7390. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter Deutschland GmbH Model BO–105CB–5 and BO–105CBS–5 Helicopters; Request for Comments; Docket No. 99–SW–58 [11–18/11–22]'' (RIN2120–AA64) (1999–0462), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7391. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes; Docket No. 98–NM–179 [1–26/1–27]'' (RIN2120–AA64) (2000–0048), received January 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7392. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company 170, 172, 175, and 177 Series Airplanes; Request for Comments; Docket No. 99–CE–24 [12–29/1–3]'' (RIN2120–AA64) (1999–0546), received January 3, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7393. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFE Company Model CFE738–1–1B Turbofan Engines; Docket No. 99–NE–39 [1–6/1–10]'' (RIN2120–AA64) (2000–0014), received January 10, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7394. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Mitsubishi Model YS–11 and YS011A Series Airplanes; Docket No. 99–NM–140 [11–22/11–29]'' (RIN2120–AA64) (1999–0479), received November 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7395. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Jetstream Model BAe ATP Series Airplanes; Docket No. 99–NM–145 [11–22/11–29]'' (RIN2120–AA64) (1999–0478), received November 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7396. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CASA C212 and CN–235 Series Airplanes; Docket No. 99–NM–149 [11–22/11–22]'' (RIN2120–AA64) (1999–0471), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7397. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saberliner Model NA–265–40, NA–265–60, NA–70, and NA–265–80 Series Airplanes; Docket No. 99–NM–127 [11–22/11–22]'' (RIN2120–AA64) (1999–0470), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7398. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; AlliedSignal Instrument Landing System Navigation Receivers-Airbus A300 Series Airplanes and Boeing Model 747 Airplanes; Request for Comments; Docket No. 99–NM–257 [11–19/11–22]'' (RIN2120–AA64) (1999–0458), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7399. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aircraft Belts, in Model CS, FM, FN, GK, GL, JD, JE, 4JT, JU, MD, ME, MM, MN,NB, PM, PN, RG, and RH Seat Restraint Systems; Docket No. 98–SW–33 [12–10/12–13]'' (RIN2120–AA64) (1999–05132), received December 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7400. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Various Transport Category Airplanes Equipped with Mode 'c' Transponder(s) with Single Gillham Code Altitude Input; Request for Comments; Docket No. 99–NM–328 [12–16/12–16]'' (RIN2120–AA64) (1999–0515), received December 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7401. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers SD3–30, SD3–60, SDS–SHERPA, and SD#–60 SHERPA Series Airplanes; Docket No. 99–NM–154 [11–22/11–22]'' (RIN2120–AA64) (1999–0468), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7402. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3–3) SHERPA, AD3–SHERPA, and SD3–30 Series Airplanes; Docket No. 99–NM–223 [1–25/1–27]'' (RIN2120–AA64) (2000–0038), received January 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7403. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empressa Brasileira de Aeronautica SA Model EMB–135 and EMb–145 Series Airplanes; Docket No. 99–NM–340 [11–20/12–2]'' (RIN2120–AA64) (1999–0494), received December 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7404. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Gulfstream America Model G–73 and G–73T Series Airplanes; Docket No. 99–NM–141 [11–22/11–29]'' (RIN2120–AA64) (1999–0482), received November 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7405. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault Model Mystere-Falcon 50 and 900 Series Airplanes, Falcon 900EX Series Airplanes, and Falcon 2000 Series Airplanes; Docket No. 98–NM–266 [12–8/12–13]'' (RIN2120–AA64) (1999–0511), received December 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7406. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aerospatiale Model ATR–42 and ATR–72 Series Airplanes; Docket No. 99–NM–144 [11–22/11–22]'' (RIN2120–AA64) (1999–0470), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7407. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Model BAe 125 Series 1000A and 1000B, and Model Hawker 1000 Series Airplanes; Docket No. 99–NM–176 [11–20/12–2]'' (RIN2120–AA64) (1999–0491), received December 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7408. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC 12/45 Airplanes; Docket No. 99–CE–54 [11–26/12–2]'' (RIN2120–AA64) (1999–0502), received December 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7409. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CL–604 Variant of Bombardier Model Canadair CL–600–2B16 Series Airplanes Mod. in Accordance with Sup. Type Cert. SA806NM–D, SA8072NM–D, or SA8086NM–D; Request for Comments; Docket No. 2000–NM–05 [1–21/1–24]'' (RIN2120–AA64) (2000–0036), received January 24, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7410. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–25, PA–25, 235, 260, PA–28S–160, –180, PA–32S–300, PA–28–151, and PA–28–161 Airplanes; Request for Comments; Docket No. 99–CE–69 [12–14/12–16]'' (RIN2120–AA64) (1999–0514) , received December 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7411. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fairchild Model F–27 and FH–227 Series Airplanes; Docket No. 99–NM–143 [11–22/11–22]'' (RIN2120–AA64) (1999–0465), received November 22, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7412. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace BAe Model ATP Series Airplanes; Docket No. 99–NM–201 [12–28/12–30]'' (RIN2120–AA64) (1999–0540), received January 4, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7413. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hartzell Propeller, Inc. Model HD–E6C–3 Propellers; Request for Comments; Docket No. 99–NE–18 [12–3/12–6]'' (RIN2120–AA64) (1999–0505), received December 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7414. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Ero Engines AF V2500–A1 Turbofan Engines; Docket No. 98–ANE–76 [12–3/12–6]'' (RIN2120–AA64) (1999–0506), received December 6, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7415. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Precise Flight, Inc. Model SVS III Standby Vacuum Systems; Docket No. 98–CE–87 [11–30/12–2]'' (RIN2120–AA64) (1999–0499), received December 3, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7416. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Kaman Aerospace Corporation Model K1200 Helicopters; Request for Comments; Docket No. 99–SW–72 [1–24/1–24]'' (RIN2120–AA64) (2000–0037), received January 24, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7417. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron-Manufactured Model HH–1K, TH–1F, Th–1L, UH–1A, Uh–1B, Uh–1E, UH–1F, UH–1H, and UH–1P Helicopters; and Southwest Flora Aviation Helicopters; Docket No. 99–SW–02 [12–8/12–13]'' (RIN2120–AA64) (1999–0512), received December 13, 1999; to the Committee on Commerce, Science, and Transportation.

EC–7418. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Convention on Cultural Property Implementation Act, the report of two actions taken in response to requests from the Republic of Cyprus and the Kingdom of Cambodia; to the Committee on Finance.

EC–7419. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Additives for Use in Meat and Poultry Products: Sodium Diacetate, Sodium Acetate, Sodium Lactate and Potassium Lactate'', received January 31, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7420. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting a report relative to the WIC Program's rating in the American Customer Satisfaction Index; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7421. A communication from the Administrator of the Food and Consumer Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Certification Integrity'' (RIN0584–AC76), received February 3, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7422. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to General Accounting Office employees detailed to congressional Committees; to the Committee on Governmental Affairs.

EC–7423. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Processing Garnishment Orders for Child Support and/or Alimony and Commercial Garnishment of Federal Employees' Pay'' (RIN3206–AI91), received February 3, 2000; to the Committee on Governmental Affairs.

EC–7424. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background

statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–7425. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, transmitting, pursuant to law, the report of a rule entitled ''Drinking Water Tribal Set-Aside Grants Guidance to Applicants'', received February 4, 2000; to the Committee on Environment and Public Works.

EC–7426. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, transmitting, pursuant to law, the report of a rule entitled ''Guidance or Project Eligibility and Design under the Region IX Tribal Border Infrastructure Program'', received February 4, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7427. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants: Final Rule to List Kneeland Prairie Penny-Cress (Thaspi californicum) as Endangered'' (RIN1018–AE55), received February 4, 2000; to the Committee on Environment and Public Works.

EC–7428. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report relative to a proposed deep draft navigation and ecosystem restoration project for Oakland Harbor, CA; to the Committee on Environment and Public Works.

EC–7429. A communication from the Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, a report relative to the construction of a flood damage reduction project along the Rio Grande de Manati at Barcelona, PR; to the Committee on Environment and Public Works.

EC–7430. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure for Pollock in Statistical Area 610 of the Gulf of Alaska'', received February 7, 2000; to the Committee on Commerce, Science, and Transportation.

EC–7431. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska-Closure for Pollock in Statistical Area 620 Outside the Shelikof Strait Conservation Area in the Gulf of Alaska'', received February 7, 2000; to the Committee on Commerce, Science, and Transportation.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–400. A joint resolution adopted by the Legislature of the State of Maine relative to the protection and restoration of the Atlantic Salmon; to the Committee on Environment and Public Works.

JOINT RESOLUTION

Whereas, the Federal Government, through the United States Fish and Wildlife Service and the National Marine Fisheries Service, has proposed to list the Atlantic salmon in 8 Maine rivers under the federal Endangered Species Act and has indicated a potential to include additional Maine rivers to the determinant of the agriculture, manufacturing, forest products and aquaculture industries of Maine on the basis of limited scientific evidence;

Whereas, Maine is strongly committed to the restoration of the Atlantic salmon to its waters, as demonstrated through the development of a comprehensive and cooperative Salmon Conservation Plan, which was produced over the course of 3 years with input from federal officials, relevant state departments, local conservation groups, affected businesses, farmers and riverside residents; and

Whereas, since the area covered by these 8 rivers and other rivers that may be included in the listing in the future contains ⅓ of the human population of Maine and virtually all of the aquaculture industry, all of Maine will feel the impact of the naming of the Atlantic salmon to the Endangered Species List; and

Whereas, adding the Atlantic salmon to the Endangered Species List in order to help the return of the Atlantic salmon in significant numbers to Maine's waters compromises partnership between Maine and the Federal Government, which has had a history of good faith; and

Whereas, there exist many significant threats to the Atlantic salmon that lie beyond the influence of Maine that also affect the prospects of long-term Atlantic salmon restoration to the rivers of Maine; and

Whereas, Maine is strongly committed to the restoration of the Atlantic salmon to its waters, has committed millions of dollars to its plan to produce this result and feels that the naming of the Atlantic salmon to the Endangered Species List is premature; now, therefore, be it

*Resolved,* That We, your Memorialists, respectfully urge and request that the President of the United States, the Secretary of the Interior Bruce Babbitt, the Secretary of Commerce William Daly and the Congress of the United States reconsider the intent to include the Atlantic salmon on the Endangered Species List as it would benefit neither the Atlantic salmon nor the people of Maine and allow Maine to continue to execute its own comprehensive plan to restore the Atlantic salmon to its waters; and be it further

*Resolved,* That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to the Secretary of the Interior Bruce Babbitt, to the Secretary of Commerce William Daley and to each Member of the Maine Congressional Delegation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Special Committee on Aging: Special Report entitled ''Developments in Aging: 1997 and 1998'' (Rept. 106–229).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SPECTER (for himself, Mr. SANTORUM, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. SCHUMER, Mrs. MURRAY, Mr. DODD, Mr. WELLSTONE, Mr. TORRICELLI, Mr. SARBANES, Mr. INHOFE, Mr. ROBB, Ms. MIKULSKI, and Mr. GRAMM):

S. 2035. A bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation incidents; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH of New Hampshire:

S. 2036. A bill to make permanent the moratorium on the imposition of taxes on the Internet; read the first time.

By Ms. SNOWE (for herself and Mr. HELMS):

S. 2037. A bill to amend title XVIII of the Social Security Act to extend the option to use rebased target amounts to all sole community hospitals; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SPECTER (for himself, Mr. HARKIN, Mr. MACK, Ms. MIKULSKI, Mr. FRIST, Mr. SCHUMER, Mr. SARBANES, Ms. COLLINS, Mr. DEWINE, Mr. HUTCHINSON, Ms. SNOWE, Mr. COCHRAN, and Mr. SANTORUM):

S. Res. 253. A resolution to express the Sense of the Senate that the Federal investment in biochemical research should be increased by $2,700,000,000 in fiscal year 2001; to the Committee on Appropriations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. HELMS):

S. 2037. A bill to amend title XVIII of the Social Security Act to extend the option to use rebased target amounts to all sole community hospitals; to the Committee on Finance.

SOLE COMMUNITY HOSPITAL FAIR PAYMENT ACT OF 2000

• Ms. SNOWE. Mr. President, I rise today to introduce the Sole Community Hospital Fair Payment Act. This legislation will correct an unintended drafting error involving Medicare reimbursements for the Sole Community Hospital program, enacted last year as part of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act (P.L. 106–113).

Medicare designates Sole Community Hospitals based on factors such as isolated location, weather or travel conditions, or the absence of other hospitals within a 35 road-mile radius. These hospitals are considered the only source of inpatient services that are reasonably available in a geographic area. Sole Community Hospitals are reimbursed for services on either a federal national standardized amount or on a hospital-specific target amount that is based on either updated FY 1982 or updated FY 1987 costs.

Last year, Congress passed legislation updating the federal rate reimbursement level to costs based on Fiscal Year 1996. A drafting error in the bill, however, unintentionally updated the reimbursements for hospitals that are paid on a specific rate—leaving out 327 hospitals across the country that Congress intended to help.

If this error had not been made America's rural hospitals would be expecting an additional $600 million over five years. Without correction, the error could cost four hospitals just in my state approximately $2.84 million annually that had been anticipated from this legislation. These hospitals—Mayo Regional Hospital in Dover-Foxcroft, Down East Community Hospital in Machias, Northern Maine Medical Center in fort Kent, and Rumford Community Hospital in Rumford—are a vital part of their communities and had expected these additional funds.

Small hospitals across the country are facing an increasingly uncertain future, and we cannot afford to lose any more of our rural health care providers. This funding is critical to these small hospitals and the communities they serve. These facilities and the patients they serve should not be penalized for a mistake made by Congress I urge my colleagues to join me in supporting this legislation and I urge the Senate to pass this technical correction bill immediately.●

## ADDITIONAL COSPONSORS

S. 285

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 290

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 290, a bill to establish an adoption awareness program, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor 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. 861

At the request of Mr. DURBIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 861, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 1020

At the request of Mr. GRASSLEY, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1086

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1109

At the request of Mr. MCCONNELL, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1446

At the request of Mr. LOTT, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Rhode Island (Mr. L. CHAFEE) were added as cosponsors of S. 1446, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 1680

At the request of Mr. ASHCROFT, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1756

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1756, a bill to enhance the ability of the National Laboratories to meet Department of Energy missions and for other purposes.

S. 1941

At the request of Mr. DODD, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1941, a bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards.

S. 1946

At the request of Mr. INHOFE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1946, a bill to amend the National Environmental Education Act to redesignate that Act as the ''John H. Chafee Environmental Education Act,'' to establish the John H. Chafee Memorial Fellowship Program, to extend the programs under that Act, and for other purposes.

S. 2032

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2032, a bill to amend the Foreign Assistance Act of 1961 to address the issue of mother-to-child transmission of human immunodeficiency virus (HIV) in Africa, Asia, and Latin America.

S. CON. RES. 76

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 76, a concurrent resolution expressing the sense of Congress regarding a peaceful resolution of the conflict in the state of Chiapas, Mexico and for other purposes.

S. RES. 87

At the request of Mr. DURBIN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. Res. 87, a resolution commemorating the 60th Anniversary of the International Visitors Program.

S. RES. 247

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 247, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 248

At the request of Mr. ROBB, the names of the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Georgia (Mr. CLELAND), the Senator from South Dakota (Mr. DASCHLE), the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Nevada (Mr. REID), the Senator from New York (Mr. SCHUMER), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. Res. 248, a resolution to designate the week of May 7, 2000, as ''National Correctional Officers and Employees Week.''

S. RES. 251

At the request of Mr. SPECTER, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Oregon (Mr. WYDEN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mrs. HUTCHISON), the Senator from Alabama (Mr. SHELBY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 251, a resolution designating March 25, 2000, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

## SENATE RESOLUTION 253—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL INVESTMENT IN BIOCHEMICAL RESEARCH SHOULD BE INCREASED BY $2,700,000,000 IN FISCAL YEAR 2001

Mr. SPECTER (for himself, Mr. HARKIN, Mr. MACK, Ms. MIKULSKI, Mr. FRIST, Mr. SCHUMER, Mr. SARBANES, Ms. COLLINS, Mr. DEWINE, Mr. HUTCHINSON, Ms. SNOWE, Mr. COCHRAN, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Appropriations:

S. RES. 253

Whereas past investments in biomedical research have resulted in better health, an improved quality of life for all Americans and a reduction in national health care expenditures;

Whereas the Nation's commitment to biomedical research has expanded the base of scientific knowledge about health and disease and revolutionized the practice of medicine;

Whereas the Federal Government represents the single largest contribution to biomedical research conducted in the United States;

Whereas biomedical research continues to play a vital role in the growth of this Nation's biotechnology, medical device, and pharmaceutical industries;

Whereas the origin of many of the new drugs and medical devices currently in use is based in biomedical research supported by the National Institutes of Health;

Whereas women have traditionally been under represented in medical research protocols, yet are severely affected by diseases including breast cancer, which will kill over 43,300 women this year, ovarian cancer which will claim another 14,500 lives; and osteoporosis and cardiovascular disorders;

Whereas research sponsored by the National Institutes of Health is responsible for the identification of genetic mutations relating to nearly 100 diseases, including Alzheimer's disease, cystic fibrosis, Huntington's disease, osteoporosis, many forms of cancer, and immune deficiency disorders;

Whereas many Americans still face serious and life-threatening health problems, both acute and chronic;

Whereas neurodegenerative diseases of the elderly, such as Alzheimer's and Parkinson's disease threaten to destroy the lives of millions of Americans, overwhelm the Nation's health care system, and bankrupt the Medicare and Medicaid programs;

Whereas 2.7 million Americans are currently infected with the hepatitis C virus, an insidious liver condition that can lead to inflammation, cirrhosis, and cancer as well as liver failure;

Whereas 297,000 Americans are now suffering from AIDS and hundreds of thousands more with HIV infection;

Whereas cancer remains a comprehensive threat to any tissue or organ of the body at any age, and remains a top cause of morbidity and mortality;

Whereas the extent of psychiatric and neurological diseases poses considerable challenges in understanding the workings of the brain and nervous system;

Whereas recent advances in the treatment of HIV illustrate the promise research holds for even more effective, accessible, and affordable treatments for persons with HIV;

Whereas infants and children are the hope of our future, yet they continue to be the most vulnerable and under served members of our society;

Whereas approximately one out of every six American men will develop prostate cancer and over 40,000 men will die from prostate cancer each year;

Whereas diabetes, both insulin and non-insulin forms, afflict 16 million Americans and places them at risk for acute and chronic complications, including blindness, kidney failure, atherosclerosis and nerve degeneration;

Whereas the emerging understanding of the principles of biomimetrics have been applied to the development of hard tissue such as bone and teeth as well as soft tissue, and this field of study holds great promise for the design of new classes of biomaterials, pharmaceuticals, diagnostic and analytical reagents;

Whereas research sponsored by the National Institute of Health will map and sequence the entire human genome by 2003, leading to a new era of molecular medicine that will provide unprecedented opportunities for the prevention, diagnoses, treatment, and cure of diseases that currently plague society;

Whereas the fundamental way science is conducted is changing at a revolutionary pace, demanding a far greater investment in emerging new technologies, research training programs, and in developing new skills among scientific investigators; and

Whereas most Americans show overwhelming support for an increased Federal investment in biomedical research: Now, therefore, be it

*Resolved,*

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the ''Biomedical Revitalization Resolution of 2000''.

**SEC. 2. SENSE OF THE SENATE.**

It is the sense of the Senate that funding for the National Institutes of Health should be increased by $2,700,000,000 in fiscal year 2001 and that the budget resolution appropriately reflect sufficient funds to achieve this objective.

Mr. SPECTER. Mr. President, this morning President Clinton announced the budget for the administration for fiscal year 2001. It has a large number of new programs and has a very substantial increase in spending, up to $1.835 trillion. In examining the budget as to its applicability to the Departments of Labor, Health, Human Services and Education on items which I chair, the appropriations subcommittee, I am concerned about the number of new programs.

On Education, there are 19 new programs. In the Department of Labor, there are nine new programs. It is a matter of concern when the President proposes programs which have mandates directing the local school districts as to what they should be doing without giving discretion to local school districts as to specific needs which they might have which might be in a somewhat different category. For example, this year the 19 new programs will increase expenditures by $2 billion 951 million—almost $3 billion. Let's put it that way, round it up a little bit.

Within these programs, there is a new program for school renovation of $1.3 billion. While there may be some merit to that specific kind of program, it may well be that the local school district could better use that money, depending upon local needs, for matters such as a science program, for laboratory equipment, for computers, for teacher training depending upon what the needs are in the local school district.

Last year, we had a considerable amount of controversy on the President's program for new teachers, a commendable objective, but it may well be that there are many school districts where the needs for some alternative programs are more pressing there. So I express a concern about the budget with its increased spending up to $1.835 trillion, and the mandate of a great many new programs which have not been authorized by the appropriate authorizing committees in the Congress.

When it comes to the question of paying for these programs, the President has proposed raising the caps by some $62 billion, but it is highly questionable whether that raise in the caps will accommodate all the programs which he has proposed. I think there is agreement between the Congress and the administration that Social Security and Medicare have to be kept inviolate and that there not be expenditures which would threaten Social Security.

On the face and on the figures, the President's budget does not invade Social Security, but there is the lurking possibility that Social Security could be invaded with the tremendous number of new programs which the President has proposed.

Last year, when the President came forward with his budget, he had proposals for some $18 billion in offsets: Federal tobacco revenues of $6 billion, FAA user fees of $1 billion, and so on, down to some $18 billion, none of which materialized. So when we take a look at the President's proposed offsets, we have to take them with more than a grain of salt as to whether they ever will materialize.

The President has proposed this year to have offsets for penalties for tobacco companies where they fail to live up to the reduction on teenage smoking. The administration's budget will cut youth smoking in half by charging the tobacco industry an assessment for every underage smoker, with an estimated penalty of $3,000 for each underage smoker. It does not pick up until some of the out years.

This is an illustration of where the President is proposing alleged cuts which may well never materialize.

There is one item where the Clinton administration budget is not adequately funded, and that is for the National Institutes of Health. In 1997, the sense-of-the-Senate resolution called for a doubling of the NIH budget over a 5-year period.

During the course of the last 3 years, very substantial advances have been made on funding for the National Institutes of Health, although we are not quite yet on target. That has been a

real battle because although the Senate passed a sense-of-the-Senate resolution in 1997 calling for doubling within 5 years, when the issue has come before the budget resolution on amendments sponsored by Senator HARKIN, who is the ranking Democrat, and myself as chairman of the relevant appropriations subcommittee, those increases in funding have been rejected. But with a sharp pencil and with very substantial help from staff on allocation of funding, we have succeeded in increasing the funding for the National Institutes of Health by more than $5 billion over the last 3 years.

Three years ago, the Senate passed an increase of $950 million. It was pared down somewhat in conference to $907 million. Two years ago, we increased NIH funding by some $2 billion, and last year we increased National Institutes of Health funding by $2.3 billion.

It is true the National Institutes of Health is the crown jewel of the Federal Government. In fact, it may be the only jewel of the Federal Government. This year, with a long list of cosponsors who are being added incrementally each day—and I expect quite a few more by the end of the day, and more even before Senator HARKIN, the principal cosponsor, and I offer this for a budget resolution—we are proposing an increase in funding of $2.7 billion, which is the minimal amount necessary to keep funding for the National Institutes of Health on a track to approximate the goal of doubling NIH funding over the 5-year period.

In addition to Senator HARKIN and myself, we have cosponsorship by Senator MACK, Senator MIKULSKI, Senator FRIST, Senator SCHUMER, Senator COLLINS, Senator DEWINE, Senator SARBANES, and Senator HUTCHINSON. The advances which have been made by NIH over the course of the past several years have truly been astounding with the projection that Parkinson's may be on the verge of being solved within a 5-year period, enormous advances on Alzheimer's, enormous advances on a variety of cancer problems—breast cancer, prostate cancer, cervical cancer—enormous advances on heart disease. As a capital investment in the health of America, there is no better investment. As a capital investment for cutting costs for Medicare and Medicaid, there is no better investment.

Last year, the Clinton administration proposed an increase of some $300 million which was far under the mark. That was raised by Congress to $2.3 billion and signed into law by the President.

This year, I think, noting the strong congressional support, the administration has proposed an increase of $1 billion in NIH funding, but that, too, is short of the mark on meeting the objective of doubling NIH funding within a 5-year period.

I have sought recognition today to submit, with my distinguished colleague Senator HARKIN, an important resolution calling for increased funding for the National Institutes of Health, to keep us on track to double NIH funding by 2002. Specifically, the resolution which we are offering today calls for the fiscal year 2001 Budget Resolution to include an additional $2.7 billion in the health account, to be allocated for biomedical research at the National Institutes of Health.

As chairman of the Appropriations Subcommittee for Labor, Health and Human Services, Education and Related Agencies, I have said many times that the National Institutes of Health is the crown jewel of the Federal Government—perhaps the only jewel of the Federal government. We all remain enthralled by the advances realized by the National Institutes of Health, which has spawned innumerable breakthroughs in our knowledge and treatment for diseases such as cancer, Alzheimer's disease, Parkinson's disease, severe mental illnesses, diabetes, osteoporosis, heart disease, and many others. It is clear that a substantial investment in the NIH is crucial to allow the continuation of these advances into the next decade.

On May 21, 1997, the Senate passed a Sense of the Senate resolution submitted by our distinguished colleague, Senator MACK, which stated that funding for the National Institutes of Health should be doubled over five years. Regrettably, even though that resolution was passed by an overwhelming vote of 98 to nothing, when the budget resolution was considered on the Senate floor, the appropriate health account had a reduction of $100 million. That led to the introduction of an amendment to the resolution by myself and Senator HARKIN. We sought to add in $1.1 billion to carry out the expressed sense of the Senate. Our amendment, however, was defeated 63–37. We were extremely disappointed that while the Senate had expressed its druthers on a resolution, they were simply unwilling to put up the actual dollars to accomplish this vital goal.

The following year, during debate on the fiscal year 1999 Budget Resolution, Senator HARKIN and I again introduced an amendment which called for a $2 billion increase for the National Institutes of Health, and which provided sufficient resources in the budget to accomplish this. While we gained more support on this vote than in the previous year, our amendment was again defeated, this time by a vote of 57–41. Not to be deterred, Senator HARKIN and I again went to work with our Subcommittee and we were able, by making economies and establishing priorities, to add an additional $2 billion to the NIH account for fiscal year 1999, which at the time was the largest increase in history.

Most recently, for fiscal year 2000, Senator HARKIN and I again introduced an amendment to the Budget Resolution which would have added $1.4 billion to the health accounts, over and above the $600 million which had been already been provided by the Budget Committee. Despite this amendment's defeat by a vote of 47–52, we were able to provide, through the maximization of our limited resources, a $2.3 billion increase for fiscal year 2000—truly an historic accomplishment.

In 1981, when I was first elected to the Senate, NIH funding was less than $3.6 billion; for fiscal year 2000, it is $17.9 billion, a 95% inflation-adjusted increase. Through several years and several Subcommittee Chairs—Senator Weicker, Senator CHILES, Senator HARKIN, and myself—the budgets were always tight and frequently faced Administration-proposed cuts. Still, we managed to increase NIH funding tremendously. This resolution seeks to reiterate the intent of the Senate to double our investment in the National Institutes of Health: we must provide $2.7 billion to stay on track to reach that goal. I believe that this goal can be achieved if we make the proper allocation of our resources.

Our investment has resulted in tremendous advances in medical research. A new generation of AIDS drugs are reducing the presence of the AIDS virus in HIV infected persons to nearly undetectable levels. Death rates from cancer have begun a steady decline. The human genome is on track to be 90 percent mapped by this spring, and fully sequenced by 2003. We are seeing the advent of a relatively new field of pharmacogenomics, which seeks to solve whether there is something about an individual's genetic instructions which prevent them from metabolizing a particular drugs as intended. In essence, drugs may soon be designed to fit the patient's genetic makeup. I anxiously await the results of all of these avenues of remarkable research.

I, like millions of Americans, have benefitted tremendously from the investment we have made in the National Institutes of Health. But to continue that commitment takes actual dollars, not just the discussion of dollars. That is why we offer this resolution today—to call upon the Budget Committee to add $2.7 billion to the health accounts so we can carry forward the important work of the National Institutes of Health.

## AMENDMENTS SUBMITTED

### NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT

#### MURKOWSKI (AND AKAKA) AMENDMENT NO. 2807

Mr. MURKOWSKI (for himself and Mr. AKAKA) proposed an amendment to the bill (S. 1052) to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; as follows:

On page 29, lines 20–21, strike ''regard to'' and insert ''counting against''.

On page 34, lines 7–8, strike ''to be made available during the following fiscal year'' and insert ''that will not count against the numerical limitations''.

On page 34, strike line 15 and all that follows through page 35, line 4.

On page 34, strike ''(C)'' and insert ''(B)''.

On page 35, strike line 20 and all that follows through page 36, line 18.

On page 36, strike ''(E)'' and insert ''(C)''.

On page 37, strike line 3 and all that follows through page 38, line 9.

On page 38, strike line 10 and all that follows through line 24.

On page 39, line 1, strike ''(I)'' and insert ''(D)''.

On page 40, line 6, strike ''and reviewable''.

On page 41, lines 3–6, strike ''The determination as to whether a further extension is required shall not be reviewable.''.

On page 41, lines 20–21, strike ''The decision by the Attorney General shall not be reviewable.''.

On page 42, lines 6–7, strike ''The determination by the Attorney General shall not be reviewable.''.

On page 45, line 16, strike line 16 and all that follows through page 46, line 10.

On page 46, line 11, strike ''(h)'' and insert ''(g)''.

On page 46, line 20, strike ''(i)'' and insert ''(h)''.

On page 47, line 3, strike ''(j)'' and insert ''(i)''.

On page 47, line 9, strike ''regard to'' and insert ''counting against''.

On page 47, line 14, strike ''(C) through (H)'' and insert ''(B) and (C)''.

On page 48, line 5, strike ''five-year'' and insert ''four-year''.

On page 48, line 9, strike ''5-year'' and insert ''four-year''.

On page 48, line 18, strike ''five years'' and insert ''four years''.

On page 48, line 23 and all that follows through page 49, line 4.

On page 49, line 5, strike ''(3)'' and insert ''(2)''.

On page 49, line 10, strike ''(4)'' and insert ''(3)''.

On page 49, between lines 21 and 22, insert the following new subsection:

''(k) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to count the issuance of any visa to an alien, or the grant of any admission of an alien, under this section toward any numerical limitation contained in the Immigration and Nationality Act.''.

## NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled ''The President's Fiscal Year 2001 Budget Request for the Small Business Administration.'' The hearing will be held on Thursday, February 24, 2000, beginning at 9 a.m. in room 428A of the Russell Senate Office Building.

## ADDITIONAL STATEMENTS

### INTEL'S TEACH TO THE FUTURE PROGRAM

• Mr. BINGAMAN. Madam President, I wanted to take a few minutes to talk about an exciting new project that was announced recently—Intel's ''Teach to the Future'' program. Intel has joined forces with Microsoft and a number of other companies to train 100,000 of our elementary and secondary school teachers in how to use information technology to improve what our kids learn. Intel will invest $100 million in this project and Microsoft will contribute more than $300 million in software, its largest donation ever. Intel and its partners deserve to be strongly commended by the Senate and the Congress for their forward thinking efforts.

The goal of Intel's Teach to the Future Program is to train 100,000 American teachers in 1,000 days. This year Intel will make grants to 5 regional training agencies in Northern California, Oregon, Texas, and Arizona that will each train 100 Master Teachers in a 40-hour curriculum on effectively applying computer technology to improve student learning. This award-winning curriculum was developed over the last two years by the Institute for Computer Technology; over 80% of the teachers who've been trained by it felt that it enhanced their student's learning. These 500 Master Teachers will return to their school districts, embedding the expertise locally by training an additional 20 teachers. By the end of this year, 10,000 teachers will be trained. Next year, the program will expand to include my home state of New Mexico, along with Washington State, Massachusetts, Utah, Southern California, Washington, DC, and elsewhere in order to train 40,000 teachers. Finally, the program will again expand to train 50,000 teachers in 2002.

We have been working hard on the federal, state, and local levels to provide schools with computers, software and access to the Internet. I authored several programs in the Elementary and Secondary Education Act in 1994 that have gone a long way toward these goals. Studies of the existing uses of technology in schools demonstrate, however, that these investments have not been optimized because teachers have not been adequately trained in its use—particularly its curriculum-based use. The availability of hardware is irrelevant if teachers are not properly trained, because it's teachers who teach, not technology.

Only 20% of today's teachers feel really prepared to use technology in the classroom. Given the dynamic nature of technology and the influx of new teachers we expect to enter the classroom in the next few years, it's easy to see how this problem could get worse if we don't focus on it. The average school spends less—often significantly less—than 1% of its technology funds on training. The Department of Education, the CEO Forum and other experts have determined that the appropriate investment should be closer to 30%.

In response to this need, I have worked closely with Senator Murray to secure funding for a pre-service technology training program in the education budget. As we approach reauthorization of the Elementary and Secondary Education Act, I also have made teacher training the centerpiece of my proposal for reauthorization of the Education Technology programs in ESEA—''S. 1604: the Technology for Teaching Act.'' Even with the continued commitment of companies like Intel, we must provide federal support and leadership for technology training for all teachers in all fifty states.

Intel's ''Teach to the Future'' project is an outstanding example of good corporate citizenship; one that should be instructive for politicians, educators, and corporations across the nation. Intel and its corporate partners clearly recognize that—just as information technology has revolutionized the workplace and the marketplace—it also promises to transform the schoolhouse. Perhaps, more importantly, however, these companies recognize that we must transform the schoolhouse in order to continue the economic revolution. We in Congress must support their efforts by increasing the federal commitment to educational technology and teacher training in this area.•

### PRAISING FORD MOTOR COMPANY FOR COMPUTER DONATIONS TO EMPLOYEES

• Mr. ABRAHAM. Mr. President, I rise today to praise Ford Motor Company's president and chief executive, Mr. Jacques Nasser, and Ford Motor Company's unprecedented gift of a home computer, color printer and unlimited access to the Internet to each and every one of Ford's 350,000 thousand employees worldwide.

Through this act, Ford Motor Company has shown that it has truly recognized the need to provide all Americans with computer and Internet access. Not a single Ford employee will be left out of Ford's initiative to provide its people with access to the Information Age. To its great credit, Ford has recognized that competing in today's high-tech global marketplace means doing everything possible to secure and train a skilled and informed workforce.

What is more, Mr. President, Ford has recognized that any company that wants to continue to succeed must see to it that everyone in its workforce, and not just a select few ''specialists'' be fully plugged in to the Information Age.

Mr. President, there is a growing digital divide in this country. Although over 40 percent of all households owned computers and one-quarter had Internet access by the end of 1998, figures show a disturbing and significant gap between two growing classes: the technical haves and the technical have-nots. This divide is defined by income and education levels, race and geographical location.

Household with incomes of $75,000 and greater are more than twenty times more likely to have Internet access in the home than households in the lowest income levels. Wealthier

families are nine times as likely to have a computer in the home. Whites are more likely than African Americans or Hispanics to have Internet access from any location, including work and the home. In addition, where a family lives can impact the likelihood of having computer and Internet access, regardless of income level. Americans living in rural areas are lagging behind in Internet access. Even at the lowest income levels, households in urban areas are more than twice as likely as their rural counterparts to have Internet access.

We are all aware that the increasing dominance of computers throughout the workplace demands computer proficiency. Right now, 60 percent of all jobs require high-tech skills. Mr. President, it is only through readily available access and consistent use of computers and technology that Americans will gain the skills necessary to participate and succeed in the New Economy. And, it is only through a skilled and educated workforce that the United States will continue to maintain its dominance in the New Economy.

That means, Mr. President, that we cannot afford to leave anyone behind in our journey into the New Economy. We will need everyone to help us face the tasks ahead. I take this challenge seriously. That is why my New Millennium Classrooms Act would give businesses increased incentives to donate used but still highly useful computers to our schools. It's unconscionable that 32 percent of public schools have only one classroom with access to the Internet when U.S. businesses are trying to figure out what to do with literally millions of used computers. It's also bad policy.

We need to get everyone onto the information superhighway. And I strongly believe, Mr. President, that Ford's exceptional program will help us in that effort. It will ensure access to the fundamental tools of the digital economy, and that is one of the most significant investments in our country that we can make. Ford's initiative not only benefits their immediate workforce, but their families and our greater communities. I would encourage all of our companies to look closely at Ford's contributions and the overwhelming good it creates.

Again, please allow me to commend Mr. Nasser and Ford Motor Co, for their dedication and invaluable contribution.

I ask that the full texts of the February 4, 2000 Washington Post and Detroit News articles be printed in the RECORD immediately following my statement.

The articles follow:

[From the Washington Post, Feb. 4, 2000]

FORD OFFERS HOME PC TO EVERY EMPLOYEE

(By Warren Brown and Frank Swoboda)

Ford Motor Co. said yesterday that it will provide every one of its 350,000 employees worldwide with home computers, color printers and unlimited access to the Internet for as little as $5 a month.

Leapfrogging across the ''digital divide'' that some fear separates wealthy computer users from people unable to afford them, Ford is the first major company to offer every employee, from the loading dock to the boardroom, the tools to participate in the Information Age.

''It is clear that individuals and companies that want to be successful in the 21st century will need to be leaders in using the Internet and related technology. That is what this program is all about,'' Chairman Bill Ford said.

Ford, the nation's second-biggest company in terms of revenue, is betting the estimated $300 million cost of the program will be quickly offset by gains in making all its employees computer literate.

''We're committed to serving consumers better by understanding how they think and act,'' said Jacques Nasser, Ford's president and chief executive. ''Having a computer and Internet access in the home will accelerate development of these skills, provide information across our businesses, and offer opportunities to streamline our processes.''

Ford said it may offset some of its costs by selling advertisements to run on the Internet service its employees will use. But even with that, the ambitious program appears unique in corporate America. Even Microsoft Corp. has nothing similar. And Hewlett-Packard Co., which is supplying the hardware under contract with Ford, provides computers only to employees who need them for work.

The program results from a contract settlement negotiated last year between the automaker and the United Auto Workers union. But Nasser said the computer program would cover all employees, even those not represented by the UAW. ''We're not leaving out anyone,'' Nasser said.

Edward Hay, president of UAW Local 919 at the Ford pickup-truck plant in Norfolk, called the computer plan a ''really good thing. The way the modern world is going, it's all going to be about computers and we've got to get up to speed.''

Many members of the local put off buying computers at Christmas in anticipation of a Ford computer program. But Hay said no one on the local predicted the deal would be this good. UAW officials said the local predicted the deal would be this good. UAW officials said they have talked to both General Motors Corp. and DaimlerChrysler AG about similar deals, but officials at those companies said they now have no plans to follow Ford. The three U.S. automakers, however, have in the past tended to match each others' benefits programs.

There are no strings attached to the computer deal for individual employees and no requirement that the PCs be used for work. Both Ford and UAW officials said there will be no monitoring of how employees use their computers or Internet access.

Company sources said the price tag could be as much as $300 million over three years, but Ford officials declined to confirm that. Ford last year netted $7.2 billion. It has another $28 billion in the bank.

In the United States, Ford workers will pay $5 a month for the basic package put together by San Francisco-based PeoplePC Inc. Hewlett-Packard Corp. will supply the computers and printers, and Fairfax-based UUNet Technologies Inc., a subsidiary of MCI WorldCom Inc., will provide the Internet access.

After three years—and a total payment of $180 per employee—the hardware will be the worker's property, though Ford officials said it isn't clear yet if employees will have to continue to pay for Internet access.

Elsewhere in the world, the monthly fee will be adjusted for household incomes and living standards.

The $5 fee is largely symbolic. It hearkens back to 1914, when Henry Ford, the company's founder, introduced the then-revolutionary industrial wage of $5 a day. Chairman Bill Ford, Henry's grandson, said the $5-a-month computer offer is equally revolutionary.

The base computer will have a 500-megahertz Intel Celeron chip, 64 megabytes of RAM, a 4.3 gigabyte hard disk, CD–ROM drive, 15-inch monitor, speakers and a modem. The printer will be a color inkjet.

Hardware will start going out to Ford employees in April. All Ford employees who want to participate in the program should receive the necessary equipment within 12 months, according to the company and UAW officials.

Hewlett-Packard sold 7.6 million personal computers worldwide last year, 4 million in the United States. If 300,000 Ford employees take advantage of the program, as Hewlett-Packard projects, the deal would represent nearly 4 percent of the company's worldwide computer sales. Weis said yesterday that it was one of the biggest single computer sales contracts for the company.

Over the past year, Ford has moved aggressively to establish itself as the e-business leader, at least in the automotive industry. Under Nasser's prompting, the company has entered into deals with Oracle Corp. to use the Internet to speed up transactions and cut costs in dealing with suppliers. The company has also struck deals with Microsoft Corp., CarPoint and Yahoo Inc. to help customers shop for cars and trucks and other Ford-provided automotive services.

Ford announced another agreement Wednesday, this one with UPS Logistics Group, to drastically reduce the delivery times of components to Ford factories and products to consumers.

Organized labor is getting into the low-price computer business with the creation last fall of Workingfamily.com, which has already signed up more than a dozen unions representing approximately half the 13 million members of the AFL–CIO. But the lowest price the unions have come up with so far is $8 a week.

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[From the Detroit News, Feb. 4, 2000]

FREE PCS GIVE FORD WEB EDGE—COMPUTERS, INTERNET ACCESS PUT WORKERS IN HIGH-TECH AGE

(By Mark Truby)

DETROIT.—In announcing plans to offer personal computers and Internet access to all Ford Motor Co. employees for $5 a month, Chairman William Clay Ford Jr. evoked his great-grandfather's decision to pay employees $5 a day.

For sheer impact, it may not match Henry Ford's seminal 1914 wage decision that gave assembly line workers the wherewithal to buy the product they built.

But the world's No. 2 automaker is making a bold statement—unprecedented in the industrial world—about its commitment to electronic connectivity.

With a dizzying series of alliances with high-technology companies in recent weeks, Ford already has committed to using the World Wide Web to revamp trade with suppliers, connect drivers to the Internet and communicate with dealers and buyers.

Now, in offering entry to cyberworld cheaply to 350,000 employees worldwide, Ford is seeking to change its corporate culture—and at cyberspeed.

''Jac Nasser (Ford's chief executive) is working very hard to drive an e-culture into the economy,'' said David Cole, the University of Michigan's top auto expert.

''When Nasser talks about Ford becoming an e-company, he is not talking about inanimate objects. He is talking about people of Ford.''

IDEA BORN IN '99

The idea first emerged during negotiations last year between Ford and the United Auto Workers, UAW President Stephen Yokich said. An arrangement in which Ford and UAW would share the cost was originally floated.

Nasser instead decided Ford would foot the bill alone and the company would offer the computers and Internet service to the company's 100,000 hourly workers in the United States, 100,000 salaried employees worldwide and 150,000 hourly employees outside the United States.

Workers at Visteon Automotive Systems, the auto-parts unit that Ford wants to spin off later this year, will be eligible, as will employees at Ford's Volvo and Jaguar units.

Ford hasn't decided whether to extend the offer to employees of Mazda Motor Corp., which is controlled by Ford.

COMPANY IS COMMITTED

''It is clear that individuals and companies that want to be successful in the 21st century will need to be leaders in using the Internet and related technologies,'' Ford said at a press conference. ''That is what this program is all about.''

Nasser said the company is committed to serving consumers better by understanding how they think and act. ''Having a computer and Internet access in the home will accelerate the development of these skills,'' he said.

General Motors Corp. and DaimlerChrysler AG have not announced any plans to match Ford's program and would not say Thursday whether they are considering it.

''We are always willing to look at anything that would benefit our workforce, but any discussions of this nature are internal,'' said Trevor Hale, a DaimlerChrysler spokesman.

Ford plans to start the program in the United States in April and complete it in 12 months.

FORD'S DECISION RECALLED

Employees who sign up will receive a Hewlett-Packard computer with a 500-megahertz processor, 64 megabytes of RAM and a 4.3 gigabyte hard disk. A 15-inch monitor and color ink jet printer computer will be included.

Employees can upgrade to three more powerful computers at their expense.

''It does remind me of Henry Ford's decision to pay his employees enough so they could afford his products,'' said Malcolm Maclachlan, an e-commerce research analyst for International Data Corp. in Mountain View, Calif.

''It sort of goes against the grain of corporate America in the last 20 years. It's an enlightened idea.''

The alliance is a boon for slumping Hewlett-Packard, which expects to ship 300,000 computers and printers for the Ford program.

PeoplePC Inc. of San Francisco is coordinating the program and UUNET of Fairfax, Va., will provide the Internet and e-mail service.

$175-MILLION PRICE TAG

Employees will access the Internet through a special portal that will offer direct links to many Ford services and information and will be customized for different regions of the world.

Ford assured employees it would not be monitoring their e-mails and Internet surfing. The network could eventually be used for company announcements such as temporary plant closings.

Ford would not discuss costs, but the program could cost upwards of a $175 million or more.

''It's a very bold move,'' said Cole, head of U-M's Office for the Study of Automotive Transportation. ''It's really very clearly out-of-the-box thinking. They are really going beyond what you would expect from a company that really watches their pennies.''

While the primary goal is to create a computer-savvy, Internet-oriented workforce, Ford expects to enjoy the ancillary benefit of goodwill with its employees.

''It's like a reward to employees,'' Cole said. ''It's a nice surprise.''

UAW MEMBERS HAIL MOVE

At a news conference announcing the program Thursday, UAW members asked detailed questions about the computers' capabilities and features, and said some of their fellow employees were considering delaying retirement until they get their computers.

''It's very much in the conversation of folks around here,'' said Tim Devine, a lawyer who works in Ford's Office of General Counsel.

''My wife and I were fairly skeptical about the Internet at first and we have sort of surprised ourselves by how useful we find it,'' Devine said.

''I think the same thing will happen and the company ends up with families whose lives are enriched.''

## REPORT FROM THE CENTER ON HUNGER AND POVERTY

• Mr. KENNEDY. Mr. President, recently, Tufts University's Center on Hunger and Poverty released a far-reaching report, ''Paradox of Our Times: Hunger in a Strong Economy.'' The report emphasizes that numerous studies on hunger in America have concluded that low-income working families do not have access to adequate food, despite the nation's economic prosperity. The report's conclusion is supported by research from the General Accounting Office, the U.S. Department of Agriculture, the U.S. Conference of Mayors, numerous state agencies, academic researchers, and policy analysts, including the Urban Institute and the Center on Budget and Policy Priorities. The Tufts study will be of interest to all of us in Congress who care about this issue, and I ask that the attached Parts I and II of the report be printed in the RECORD.

The material follows:

[From the Center on Hunger and Poverty, Tufts University, Medford, Massachusetts]

PARADOX OF OUR TIMES: HUNGER IN A STRONG ECONOMY

(By Sandra H. Venner, Ashley F. Sullivan, and Dorie Seavey)

''It was, the best of times, it was the worst of times . . .'' Charles Dickens.

I. INTRODUCTION

America today is haunted by the paradox of hunger and food insecurity amidst unprecedented prosperity. Despite a record economic expansion that is now in its ninth year, accompanied by an historic mix of low inflation and low unemployment, millions of American households are struggling to find sufficient resources to feed their family members.

Signs of our economy's unparalleled prosperity are everywhere: the national unemployment rate, currently at 4.1 percent, is the lowest in thirty years; after-tax average income is expected to be 20% higher in 1999 than in 1977 after adjusting for inflation; the stock market toys repeatedly with new highs; consumer spending is at an all-time high; the federal budget surplus is positive for the first time since the sixties; and even the poverty rate has edged downward with fewer children living in poverty today than at any time since 1980.[1] Among the industrialized economies of the world, the United States has emerged from a period of heavy corporate restructuring and deregulation, and stands vibrant and flexible, leading the world in technological innovation.

According to our national leaders, significant social goals have also been accomplished during this period. Over the last half decade, a profound transformation of our social welfare system has occurred as key elements of the New Deal framework have been replaced by time-limited public assistance and an arrangement in which states have great flexibility over the design and implementation of their welfare programs. Congressional intent to reduce the number of poor families receiving government benefits has been achieved in a remarkably short period of time. The percentages of Americans currently on welfare (2.7%) or receiving food stamps (6.6%) are at historic lows: for welfare cash assistance, the participation rate is the lowest in more than three decades while the food stamp participation rate is the lowest since 1978 (''Green Book'', 1998).

The hallmark of these economic and policy accomplishments, however, is paradox. Beneath the surface of almost unparalleled economic vitality and the touted ''success'' of the 1996 welfare reform law lie deep contradictions and mismatches in the nation's social and economic fabric. The most troubling aspect of our times is that the country's economic prosperity has not been broadly or deeply shared. And perhaps the most glaring manifestation of this fact is the level of food insecurity and hunger in our society. Hunger persists in every region of the country and in every state—in urban, rural, and suburban areas, in households with children, among the elderly and other adults who live on their own, among minority and immigrant communities. Indeed, in some pockets of our society, food insecurity and hunger are at levels that pose significant public health problems, seriously compromising individual and family health and well-being while generating a myriad of societal costs.

This report constitutes a new and somewhat disturbing look into America in 2000. Focusing on families with children, it has three main purposes. The first is to present the most current evidence on the problem of food insecurity and hunger in America, synthesizing information from three key sources: national studies, state and local studies, and finally, reports concerning the use of the non-governmental emergency food system. The second purpose is to identify the key forces driving food insecurity and hunger within what is the now the longest economic expansion since the Vietnam War. In particular, we examine two sets of factors: problematic aspects of the two major programs designed to assist poor families—Temporary Assistance to Needy Families and the Food Stamp Program—and at a more systemic level, economic forces that are creating growth but also are increasing inequality, insecurity, and wage stagnation at the lower end of the labor market.

The final purpose of this report is to provide a framework for a comprehensive approach to the problem of hunger and food insecurity in America. A three-pronged approach is suggested: (1) attending to the immediate need to improve access to the Food Stamp Program for people who do not have secure and safe sources of sufficient food, (2)

[1] Footnotes at end of article.

recasting the Food Stamp Program to orient it more to the needs of low-income working families, and (3) addressing the deepest roots of hunger in America through a fundamentally new paradigm for domestic social policy that responds to—rather than lags behind—the country's new social and economic realities. Among the key components of such a framework must be a revamped social insurance system (including improved unemployment insurance and portable benefits), more comprehensive income support programs that help families supplement their earnings and stabilize their economic circumstances, and opportunities for individuals and families to build their assets and economic security over the various stages of life.

## II. Hunger and Food Security in the United States: What Does the Evidence Tell Us?

Information about the extent and severity of hunger and food insecurity[2] in the U.S. comes from several sources. To provide information about circumstances at the national level, in 1995 the U.S. government began to annually collect data on the prevalence of food insecurity and hunger among households. State and local studies of household food security, typically conducted by non-governmental organizations, also contribute important information. Finally, evidence of food insecurity comes from studies that document changes in emergency food demand in various parts of the country. These varied sources of information capture different aspects of food insecurity and hunger in America today, and taken together constitute a composite of the problem.

### National Data on Food Insecurity and Hunger

Prior to the mid-1990s, estimates of the number of households or individuals who were hungry or at risk of hunger relied upon extrapolations of the poverty rate. With the development and implementation of the USDA Food Security Measure,[3] the ability to consistently and reliably measure the prevalence of hunger improved dramatically. The U.S. government now collects information on the food security of households in all states, and reports on an annual basis the food security status of population groups over time.

The United States Department of Agriculture (USDA) has released four years of household food security data, which together cover the period from 1995 to 1998.[4] The most recent data released (1998 figures) show that an estimated 10.5 million households experienced some degree of food insecurity, or 10.2% of all households in the United States. Of the more than 30 million people who lived in these households, nearly 40% (or 12.4 million) were children. Over 9 million households (3.6%) experienced hunger, the most severe state of food insecurity (USDA, 1999).

In 1998, households with children—the focus of this report—experienced food insecurity at more than double the rate for households without children (15.2% versus 7.2%). Households with the youngest children (under six) experienced an even higher level of food insecurity (16.3%). Of the different types of households with children, those headed by single females showed the highest food insecurity and hunger levels, with nearly one in three reporting food insecurity and one in ten experiencing hunger (USDA, 1999).

Food insecurity prevalence for households with children under 18 remained virtually unchanged across the four-year period ending in 1998 at about 15% (see table below), although the data indicate a small decline in the prevalence of hunger. Given the unprecedented strength of economic indicators during this period, a decline in the national food insecurity prevalence could reasonably have been expected. Instead, the data indicate that food insecurity remains a serious, persistent problem in the U.S. with a significant proportion of families and individuals struggling to meet their basic food needs.

FOOD SECURITY PREVALENCE ESTIMATES FOR CHILDREN AND HOUSEHOLDS WITH CHILDREN 1995 AND 1998

| | 1995 | | 1998 | |
|---|---|---|---|---|
| | 000s | % | 000s | % |
| Households with children under 6 | 18,003 | 100.0 | 17,176 | 100.0 |
| Food insecure | 3,047 | 16.9 | 2,796 | 16.3 |
| Without hunger | 2,149 | 11.9 | 2,132 | 12.4 |
| With hunger | 898 | 5.0 | 664 | 3.9 |
| Households with children under 18 | 37,520 | 100.0 | 38,178 | 100.0 |
| Food insecure | 5,791 | 15.4 | 5,812 | 15.2 |
| Without hunger | 3,940 | 10.5 | 4,216 | 11.0 |
| With hunger | 1,851 | 4.9 | 1,596 | 4.2 |
| Children in households | 70,279 | 100.0 | 71,463 | 100.0 |
| Food insecure | 12,231 | 17.4 | 12,373 | 17.3 |
| Without hunger | 8,131 | 11.6 | 9,114 | 12.8 |
| With hunger | 4,100 | 5.8 | 3,259 | 4.6 |

Source: U.S. Department of Agriculture (1999). Advance Report on Household Food Security in the United States, 1995–1998. Nord, M. (September 28, 1999). ERRATA Table 2D in Household Food Security in the United States 1995–1998 (Advance Report).

In addition to the USDA, the Urban Institute also documents food insecurity and other measures of economic well-being as part of a multi-year national monitoring project. This effort includes the fielding of a nationally representative survey called the National Survey of America's Families (NSAF). Based on a sample of 44,461 households in 13 states, the 1997 NSAF found that half of all families at 200% of the poverty line or below worried about food shortages or had difficulty affording food (Urban Institute, 1999).[5] In their examination of low-income households, the USDA reported that nearly 40% of all households whose incomes were below half of the poverty line experienced food insecurity in 1998 (USDA, 1999).

### State and Local Food Insecurity Prevalence

Studies that measure state and local food insecurity prevalence differ in scope and methodology. Some studies of household food insecurity provide evidence of the statewide prevalence, while others detail the characteristics of household food insecurity on a local level.[6] Studies of economic well-being often incorporate a measure of food insecurity as well. Depending upon the scope of the study, samples range from random, representative samples to convenience samples of at-risk populations. Although studies use questions from the USDA Food Security Core Module, each sampling approach provides specific information about households that experience food insecurity and hunger.

Food insecurity and hunger prevalence appears to vary considerably at the state level. USDA data shows that the percentage of households experiencing food insecurity ranged from 4.6% of households in North Dakota to 15.1% of households in New Mexico (calculated as a three-year average over the period of 1996–1998) (Nord et al., 1999). The Urban Institute survey found that the percentage of low-income families who worried about food or had difficulty purchasing food among the 13 states surveyed ranged from 47% in Wisconsin to 61% in Texas (Urban Institute, 1999).

These survey results have been augmented by a number of recent studies conducted by citizen groups, academic institutions, and state government agencies:

A survey of at-risk households in Green Bay, Wisconsin conducted at 21 meal sites in April and May 1998 found that 66% of respondents reported food insecurity with varying degrees of hunger. Of these, well over half (58.1%) suffered moderate to severe hunger (Kok, 1998).

A California study of 823 families with incomes below the poverty line seeking emergency services in April and May 1998 found that 27% of households experienced food insecurity with severe hunger, and 33% were food insecure with moderate hunger present—an overall hunger prevalance of 60% (California Food Policy Advocates, Persons . . ., 1998).

Using the USDA's Core Food Security Module, the Rhode Island Department of Health conducted a pilot food security assessment of households residing in poverty census tracts. Of the 410 households surveyed, 24.4% were determined to be food insecure. Among food insecure households, 15.6% were food insecure without hunger and 8.8% of households experienced hunger (RIDOH, 1999).

### *Food Insecurity Among Former Welfare Recipients*

In addition to the sources cited above, documentation on the food security status of former welfare recipients is being collected by states in their examination of the effects of policy changes on former recipients. While many studies of the economic well-being of this population are currently underway, some results are available. These studies, though different in their methodologies, document persistent food insecurity among former welfare recipients.

According to Urban Institute's national study more than one-third (38%) of former recipients reported that they ran out of food and did not have money for more (Loprest, 1999). A number of state surveys of former welfare recipients report similar outcomes:

In a Wisconsin welfare ''leaver'' study, 375 former recipients were asked if there was ever a time after leaving welfare when they could not buy food; 32% of those families responded ''yes.'' Of those unable to purchase food, 49% reported going either to a church, food pantry, food kitchen, or shelter at some point; 46% went to friends and relatives, and 5% reported going hungry (WDWD, 1999).

In 1997, 17% of 384 South Carolina survey respondents reported that there were times, after leaving the welfare program, when they had no way to buy food (SCDSS, 1999).

A post-time limit welfare tracking study in Connecticut found that 22% of 421 respondents indicated that they ''sometimes'' or ''often'' did not have enough to eat. Of these respondents, 96% reported that the food they bought did not last and they did not have money to buy more sometime during the three months after the benefit termination (Hunter-Manns et al, 1998).

In Michigan, 27% of families who had their cash assistance benefits terminated due to sanctions reported not having sufficient food (Colville et al, 1997).

### Reports from Emergency Food Assistance Providers

Emergency food providers, like soup kitchens and food pantries, help supplement the food obtained through federal food assistance programs, and also provide food to those who are either ineligible for or do not participate in government assistance programs. In addition to receiving commodities through the Temporary Emergency Food Assistance Program (TEFAP), emergency food providers obtain food supplies from food banks and food rescue organizations, known collectively as food recovery organizations (Youn, 1999).

When families experience food shortages, some turn to emergency food programs, yet, many households remain food insecure. In fact, the very act of seeking emergency food assistance implies that families are unable to meet their food needs after pooling resources from their own households, federal food programs, or friends and family. Utilization of emergency food assistance programs is therefore an indicator of food insecurity.

*Emergency Food Demand High Nationwide*

Recent national studies document persistent, and even increased, demand for emergency food assistance. Second Harvest reported that its emergency food programs across the country served over 21 million people (an unduplicated count) in 1997. Of the clients interviewed, 78.5% had insufficient income for food and relied upon agency or government food programs. Over one-quarter (27.5%) of Second Harvest clients reported that adults in their household missed meals during the previous month because they did not have enough food or money to buy food. Of those households with children, 9.1% reported that children missed meals in the prior month for similar reasons (Second Harvest, 1998). In addition, Catholic Charities reported that during 1998, the demand for emergency food assistance rose an average of 38% among reporting agencies (GAO, July 1999).

The recently-released U.S. Conference of Mayors survey of 26 major cities reveals that 85% of respondent cities reported a rise in emergency food assistance demand between November 1998 and October 1999, with requests increasing by an average of 18% over the previous year. For those cities reporting increases, the rising demand for emergency food ranged from 1% in Chicago to 45% in Los Angeles. Nearly 60% of those requesting food assistance were children and their parents. In addition, over two-thirds (67%) of adults requesting food assistance were employed. In all of the cities surveyed, people relied upon emergency food assistance facilities not only in emergencies but also as a steady source of food over long periods of time. Officials in virtually every city surveyed anticipate increased requests for emergency food assistance in 1999, especially among families with children (U.S. Conference of Mayors, 1999).

*State and Local Emergency Food Programs Seeing More Families*

Reports from states and metropolitan areas present a similar, if not a more striking, picture of emergency food demand in various regions throughout the United States. Of those studies reviewed, recent increases in the number of clients ranged from 14% to 36%.

Maryland emergency providers reported that from September 1997 to September 1998, soup kitchens experienced a 25% increase in the number of children served, a 24% increase in the number of women served, and a 19% increase in the number of families served. Food pantries reported an 8% increase in children, a 21% increase in women, and a 24% increase in the number of families served (Center for Poverty Solutions, 1998).

A Massachusetts study of 98 emergency providers found that between 1996 and 1997, 63% experienced a rise in the total number of emergency food requests, with clients served increasing an average of 22.4%. Over half (52.4%) of the clients requesting emergency food assistance were families with children, and nearly half of the programs reported an increasing number of families with children requesting services. (Project Bread and the Center on Hunger and Poverty, Tufts University, 1998).

A recent survey of 330 New York City providers revealed that emergency food requests at each site increased an average of 36% from January 1998 to January 1999. Providers reported a 72% increase in the number of families with children seeking emergency food assistance (New York City Coalition Against Hunger, 1999).

Of the greater Philadelphia community food providers surveyed between April 1998 and April 1999, 67% reported a greater demand for food assistance during this time period. Overall, providers reported an 18% increase in the number of individuals seeking food assistance compared to the previous year, with 45% of their clients from families (Philabundance, 1999).

Connecticut also reported higher demand for food assistance. Of the 128 food sites that reported an increased demand for assistance between October 1997 and October 1998, the number of persons served grew by an average of 24% (Connecticut Association for Human Services, 1999).

At emergency food programs in Utah, researchers found a 24% increase in the number of individuals served from 1997 to 1998, and an astonishing 107% increase over the prior two-year period (Utah Food Bank, 1999).

An Oregon survey of over 680 regional food providers reported that the number of people who received emergency food boxes increased 14% from 1997 to 1998, to a high of 458,208 individuals, or 1 in 8 people in Oregon and Clark County, Washington (Oregon Food Bank, 1999).

*Emergency Food Providers Struggling to Meet Demand*

Emergency food providers are struggling to meet the increased food needs of their clients. Although the provider network continues to grow, reports indicate that it is unable to meet the demand for assistance, and providers must sometimes either turn clients away or provide them with less in order to stretch resources over a growing client population. For example, the U.S. Conference of Mayors report that in 1998, on average, 21% of requests for emergency food assistance went unmet (U.S. Conference of Mayors, 1999).

Studies also indicate a shift in the composition of people using emergency food programs. Soup kitchens, which have traditionally served homeless adults, report an increase in the number of families with children. Pantries report increased requests for evening hours in order to serve needy working parents. And food bank directors report increased regular use of their programs by clientele who used to stop in occasionally for a bag of food.

Taken together, this evidence raises red flags concerning the depth of food insecurity experienced by many families. Typically, seeking out emergency food assistance is an end-stage coping strategy. As such, emergency food program activity constitutes a unique barometer for gauging the paradox of hunger in a strong economy, and is evidence of the numbers of households and individuals for whom neither employment in the strong economy nor federal safety nets are providing the support necessary to ensure their food security.

SUMMING UP THE EVIDENCE

Based on data from national, state and local studies as well as reports from emergency food providers, the evidence on hunger and food insecurity in the United States can be summarized as follows.

The national data show remarkably persistent levels of aggregate household food insecurity over the last four years that appear unresponsive to favorable national economic trends. Approximately one in ten households in the US report food insecurity; over 30 million adults and children live in these households.

Household food security at the state level varies widely around the national average, ranging from less than 5% to over 15%.

Local studies using the same food security survey instrument used by the USDA have found hunger prevalence rates among various at-risk groups that are 5 to 10 times the overall national rate.

Recent reports from emergency food assistance providers across the country indicate greater dependence of food insecure families on the emergency food system, increased regular reliance on this system to meet household food needs, a significant number of unfulfilled requests, and greater numbers of families with children among their clientele.

FOOTNOTES

[1] Shapiro and Greenstein (1999): U.S. Census Bureau, Statistical Abstract of the United States 1999.

[2] Food insecurity occurs whenever the availability of nutrionally adequate and safe food, or the ability to acquire acceptable foods in socially acceptable ways, is limited or uncertain. Hunger is defined as the uneasy or painful sensation caused by a recurrent or involuntary lack of food and is a potential, although not necessary, consequence of food insecurity. Over time, hunger may result in malnutrition.

[3] The USDA Food Security Core Module consists of an 18-item instrument constructed as a scale measure. The items ask about a household's experiences of increasingly severe circumstances of food insufficiency and behaviors undertaken in response to them during the 12-month period preceding the survey (Hamilton et al, 1997).

[4] The Advance Report (Nord, 1999) builds on an earlier historic report released in 1997 that presented the first-ever national prevalence estimates of food security using 1995 data collected by the U.S. Census Bureau.

[5] To assess household food security, the NSAF includes three questions from the USDA's Food Security Core Module.

[6] The studies reviewed for this report were published or released after January 1998 and represent only a portion of available data. For a more comprehensive collection of state and local food security studies, see the compilation of studies released in February 1999 by the Food Security Institute at the Center on Hunger and Poverty.●

## KAZAKHSTAN

●Mr. DEWINE. Mr. President, last November, Akezhan Kazhegeldin, who served as Prime Minister of Kazakhstan from 1994 to 1997, was the featured speaker at the City Club of Cleveland. His remarks summarize the many challenges and struggles in Kazakhstan and how the United States can be a partner for progress and democracy in Central Asia.

I have a copy of Mr. Kazhegeldin's remarks, as well as a copy of the story on his visit that appeared in the Cleveland Plain Dealer, and I ask that both appear in the RECORD following the conclusion of my remarks.

The material follows:

REMARKS OF THE HONORABLE AKEZHAN KAZHEGELDIN

Ladies and Gentlemen!

First of all, I would like to thank those who arranged this radio forum and asked me to appear before you. This is not only an honor for me, but also a great responsibility. At this rostrum I have been preceded by many respected politicians, among them presidents of the United States. Now the chance to be heard here, in Ohio—the very heart of the United States, has been given not only to me, Akezhan Kazhegeldin, economist and politician, but through me to all of Kazakhstan.

My country lies in the very center of Asia between Russia and China, between Siberia and the great deserts. Poets say that Kazakhstan is the very heart of Asia. For me, therefore, this appearance before the citizens of Ohio represents a conversation between two hearts, a true heart-to-heart talk.

American society needs first-hand knowledge about what is happening in the countries which were formerly parts of the Soviet Union. American corporations, working in Kazakhstan, may have knowledge and understanding of geological resources, but no more

than that. I am sure that the oil companies which worked in Iran under Shah Pahlevi had the most detailed and accurate geophysical maps. But these maps could not have predicted that the Shah would be replaced by the Khomeini regime.

In many of the former Soviet republics one can clearly see the possibility or the actual threat of new anti-democratic regimes arising. They are not necessarily linked to religious extremism. And even less to Islam. The Serbian leader Milosevich is not an Islamic extremist. He is a Christian extremist, a nationalist. But that does not make him any less dangerous.

ABOUT KAZAKHSTAN

My country has been in existence as an independent state for only eight years. I am not surprised that not everyone can find it on a map. And yet in recent times American newspapers have been writing about Kazakhstan more frequently. So it is harder nowadays to miss Kazakhstan. Some may say that Kazakhstan is simply a splinter of the former Soviet empire. If so, it is a very large splinter. The largest if one does not count Russia. The territory of Kazakhstan covers 2.7 million square kilometers. This huge territory is inhabited by fifteen million people. This is a bit more than the population of the greater New York metropolitan area. I suspect that it will be a long time before we enter the international discussion of world overpopulation. Imagine the reaction of Japanese businessmen during a four-hour flight from Almaty, our southern capital, to Atray, the center of the oil production region in the western part of the country, when they are told by the stewardess that on their way they will pass over all of three towns. On the other hand, Kazakhstan businessmen are equally stunned when they find out the size of the assets of Japanese and American banks. The total annual state budget of Kazakhstan is somewhere in the area of six billion dollars. That sum passes through a New York bank during one week. And I am not specifically speaking of the Bank of New York.

THE RESOURCES OF DEMOCRACY

When I speak of money, I have no intention of asking for a donation of a certain number of millions to Kazakhstan. This in spite of the catastrophic lack of funds for everything and anything, from formula for the newborn to pensions for the aged. The envoys of the current president regularly come to Washington to ask for credits and donations. But we, the opposition, expect a different kind of aid from America. You probably know the ancient saying that one can give a hungry man a fish or one can teach him how to fish. This holds true not only for Kazakhstan but for all other newly independent states. People in those countries do indeed need the means to exist, but what they need even more is the ability to earn these means within the framework of a unified world market.

God has not been ungenerous to Kazakhstan when He distributed natural resources. Oil is far from being our only treasure. Kazakhstan possesses deposits of almost all metals, including gold, aluminum, copper, titanium, uranium, zinc and others. All of these resources were being used in one form or another under the Soviet regime. Kazakhstan was then one of the key regions impacting on the growth of the military and industrial might of the Soviet Union.

When I entered the government in 1993 after having held the position of President of the Entrepreneurs' Union, I considered it my main task to attract foreign investment capital. I traveled the world meeting with businessmen and touting our mineral resources, our highly qualified labor force and engineers, and the possibility of unlimited new markets.

During the four years that I held the position of prime-minister we were able to attract to our country hundreds of Western, primarily American, companies. Their investments totaled 9 billion dollars. We not only managed to avoid defaulting on the multi-billion debt incurred by the previous regime, but we created gold and hard currency reserves of a size remarkable for a country such as Kazakhstan.

But I have to confess that during my tenure I failed to achieve the most important goal—that of creating a sufficient reserve of democracy in our society. Parallel with the development of a liberalized economy an authoritarian and anti-democratic regime was emerging in Kazakhstan—the regime of President Nazarbaev.

And, unfortunately, I myself helped solidify it. As a young politician and, more accurately, a technocrat, I believed that everything would develop on its own as it should. Together with my reform-minded colleagues I thought that once a market economy was established, democracy would follow; once Western investments started coming, society would automatically become transparent; once a middle class had emerged and defined its interests, a multi-party system would appear.

We were wrong. Even while still in the position of prime-minister I began to notice that foreign investors would frequently find themselves in conflict with local administrations and would always lose in the end.

The courts and media controlled by local officials invariably took the side of their bosses. Foreign investors and ambassadors applied to me and in each specific case I was forced to use my authority as prime-minister.

Our own businessmen found themselves in an even worse situation. They became hostages to the officials. They did not have embassies on their side, and their complaints were not being heard by the international arbitration board in Stockholm. Without the administration's patronage they were unable to conduct their business.

At the same time more and more positions in government were being occupied by the President's relatives. Other positions went to nephews, to fellow-villagers and former colleagues in the Communist Party.

Combining business holdings, obtained without investment or qualifications, with power, they created a unique sort of capitalism profiting an oligarchy determined by clan and family ties. It was futile to expect of these people either democratic views or even professional managerial conduct.

At this point I left the government and dedicated myself to political activity. I became the head of the Union of Industrialists and Entrepreneurs of Kazakhstan and later the chairman of the Republican National Party of Kazakhstan. These organizations formed an opposition to President Nazarbaev, and I personally was forced to leave my country and seek temporary asylum in Western Europe.

AMERICAN AID

I recently read in the New York Times a commentary by Tina Rosenberg on the work of one of the specialists of the Carnegie Endowment for Peace dealing with the effectiveness of America's ''export of democracy''. I have not as yet seen the book myself, but I noted the following figure: Seven hundred nineteen million dollars were spent last year on US government support of democracy in other countries.

Thomas Carothers attempted to estimate the effect of such investment in democracy. This is an extremely important question. In the case of Kazakhstan, I see how often such aid is being used by anti-democratic forces for their own purposes. I will give you an example: The International Financial Corporation -opened the printing house ''Franklin'' in Almaty. At first it printed a number of newspapers expressing different viewpoints, among them ''Karavan'', the most widely read and independent of the newspapers of Kazakhstan.

However, just before last year's presidential elections the authorities forced the owner to sell the newspaper together with the printing house to a relative of President Nazarbaev. Since then the facility has printed nothing but pro-government publications, and the opposition has been forced to print its materials a thousand miles away in Russia and ship them secretly into Kazakhstan.

As you know, barely a month ago parliamentary elections were held in Kazakhstan. They were carried out with massive violations of voting procedures and false vote counts. As a result, the majority of the seats in parliament went to the candidates of the powers that be and to government officials. This happened in spite of the fact that sociological polling and the monitoring of voting precincts on election day indicated that the opposition candidates were in the lead across the country.

It is not surprising that all this falsification was carried out and later covered up by the Central Electoral Commission. The Commission was created and is controlled by President Nazarbaev. It is, therefore, understandable that local electoral commissions composed of government employees and controlled by local administrators and governors added fake ballots and issued false election returns.

What is amazing is the fact that on the eve of the elections international organizations conducted serious work of ''educating'' the members of these electoral commissions. Dozens of experts from Western Europe and the United States lectured on the subject of how ballots must be handled and counted correctly and honestly. Members of the Central Electoral Commission went abroad for training. Instructions and methodological materials were printed, seminars conducted. I do no know how much all of this cost, but I suspect that millions were spent. We, the citizens of Kazakhstan, watched all this as a performance of the theater-of-the-absurd.

Why were all these efforts and funds, among them those of the American taxpayers, expended in vain? As recently as in January of this year, these very same electoral commissions had falsified the results of the presidential elections. The free press had been annihilated and many members of the opposition had been denied their civil rights. I was one of them.

The Organization for Cooperation and Security in Europe, a number of Congressional committees and the Administration of President Clinton have condemned those elections as incompatible with democratic norms. The authorities of Kazakhstan never intended to hold honest elections or to admit opposition candidates to parliament. Could the Administration and the agencies involved in foreign aid have deemed it possible that, having falsified the presidential election, Nursultan Nazarbaev would allow honest parliamentary elections? That is hard to believe.

THE SECRET STRATEGY OF DICTATORS

It seems to me that after the dissolution of the Soviet bloc and the Soviet Union, the West was caught in a trap set by crafty post-Soviet leaders. These people have learned the lesson of history, they have understood that one cannot openly reject democratic principles. They determined that it is much better to verbally acknowledge common

human values, to proclaim them loudly at every turn, to promise to stop all violations of human rights, and—most of all—to abstain from polemics with the West.

Then one can pay yearly visits to Washington, make speeches before members of the various think tanks about progress towards democracy, and acquire the reputation of being ''our man''. And meanwhile in one's own country one can destroy the free press, quash the opposition, and prevent any possibility of a transfer of power by constitutional means.

At the same time, these leaders, trying to preempt criticism, are asking the West for help in building democracy. They say that because of long years of Soviet dictatorship, their citizens are unable to absorb such concepts as equality before the law, freedom of speech, political competition and the division of power.

Thus in April of this year, President Nazarbaev during his appearance at the Carnegie Endowment asserted in all seriousness that America had needed two hundred years to build its democracy and that, therefore, no demands in that respect could be made on Kazakhstan.

Had I been present at that meeting, I would have answered my president by saying: ''Had American presidents allowed themselves to rig elections and prolong their terms in office at will, even five hundred years would not have been enough for building democracy in the United States.''

It is hard to say how many American consultants have visited Kazakhstan and how many proposals and memorandums they have written for the government. All of them were qualified experts, all of them believed that the government was just waiting for their recommendations to make one more step toward genuine democracy. But none of these recommendations are implemented if they go contrary to the preservation of power by the new ''nomenklatura''.

You must realize that the elective nature of local government has been abolished in Kazakhstan. All regional governors and local mayors are appointed by the President. There is a Ministry of Information and Social Concensus which controls the media and printing. What kind of recommendations can one give to these institutions? All this reminds one of a discourse between a cannibal and dieticians. The members of the rubber-stamp parliament have frequently visited Washington on the invitation of their colleagues, the US legislators. They pretended to admire the perfection of the American system of division of power and then returned home to vote for granting President Nararbaev additional powers and authority and extending his term of office from five to seven years. There is a Russian proverb ''The oats were of no profit to the horse''. I think it fits the situation.

A year ago a ban was placed on the publication of my book ''The Right to Chose'', which exposed the true nature of the current regime. More than three hundred thousand copies published in the Kazakh language were destroyed. For the last two years the authorities have been denying registration to the newspaper ''Respublika''. During the presidential elections twelve opposition papers and two radio stations were closed down. Three printing houses were confiscated and have not been returned to their owners. Quite recently the owner of the independent radio station RIK was forced to leave for Canada.

I was outraged when I heard the testimony of Kazakhstan's ambassador to Washington Nurgaliev at the hearings before the Congressional Committee on Cooperation and Security in Europe. He was trying to convince Congress that democracy was indeed evolving in Kazakhstan, that it was becoming an accomplished fact. As proof thereof he cited the cooperation of his government with international organizations and American consultants.

And this at a time when it is clear to any objective observer that Kazakhstan is moving swiftly away from democracy and mutating towards a classic dictatorship. What is encouraging is that US legislators do not allow themselves to be duped by such litanies of ''good deeds'' and continue to condemn the anti-democratic practices of the current regime.

Does this mean that the United States should abandon their efforts to export democracy to post-Soviet states? Not at all! But it would be useful to analyze the correlation between cost and effect.

When viewed from that perspective, the most effective aid turns out to be that which is given not to governmental bodies, but to specific opposition groups, to independent newspapers to intellectuals, to unofficial trade unions. It is such aid that proved to be decisive in Poland. A simple Xerox machine in the hands of ''Solidarity'' proved to be a more powerful weapon than the guns and clubs of the secret police.

But one must remember that the new dictators are extremely resourceful. For the benefit of the West they create a large number of seemingly non-governmental and quite democratic organizations: ''pocket'' trade-unions, environmental movements, women's movements, fake political parties.

It would seem, that a foreigner would be incapable of telling a genuine human rights advocate from a false one, a real democratic movement from a fictional one. But in actuality, it is all quite simple: There is only one criterion and it is well known to your journalists and diplomats who work in Kazakhstan: Does this or that opposition group allow itself to criticize the President?

All the ''pocket'' dissidents and fictional opponents are permitted to severely criticize and expose regional governors and even government ministers, but will never dare to point out that, if corruption has pervaded the highest levels of government, the President is obviously aiding and abetting it. Once you identify the ''upper limit of criticism'', you can determine whether the organization in question is really independent of the government and the secret police.

THE VOICE OF AMERICA MUST BE TRULY HEARD

The credit for the fact that the Soviet Union crumbled of its own accord without anybody coming to its defense belongs to a greater degree to the radios ''Liberty'' and ''Voice of America'' than to the Pentagon and the CIA. I hope that the workers of those two venerable agencies will not feel offended.

But it is precisely from those broadcasts that I myself gained my basic understanding of a free society and of a market economy. At that time the broadcasts were being heavily jammed, but we listened anyway. We did so because man has, among other instincts, the very basic instinct, the unquenchable desire to know the truth. The great Russian writer and the great dissident of the Soviet era, Nobel Prize Laureate Alexander Solzhenitsyn proclaimed that ''God is to be found in truth, not in might''. It is because of this that Brezhnev feared him more than any other of his enemies.

This is why, when I meet with members of Congress and the Administration in Washington, I ask them again and again not to cut down on broadcasts to the former Soviet republics, but to create broadcast services for each of the new states of Central Asia. My people need information as much as they need bread.

You cannot imagine to what length my fellow-citizens will go to obtain truthful information. Because of the difference in time zones, they watch Russian TV broadcasts deep into the night trying to find out what is really happening in Kazakhstan. Early in October the New York Times published an article about the fact that the Swiss police had frozen the personal bank account of President Nazarbaev in the amount of eighty five million dollars. As soon as reports about this event began to be broadcast by Russian television stations, all Russian TV channels were blocked for three days in Kazakhstan.

I am sure that you find it hard to believe. But this is indeed so. Try to imagine it. Try to imagine how hard it is for people to live not only in poverty but surrounded by lies. Help people in all post-Soviet states to turn from mere populations into civic societies. The broadcasts of the Voice of America and of Radio Liberty must not be curtailed.

Full-fledged programs for each of these states in its own language must be created. One should not economize on truth and freedom of information. The United States, as the last of the superpowers, bear the responsibility for maintaining not only peace but truth. I repeat the words of Solzhenitsyn: ''God is to be found in truth, not in might''.

THE THREAT TO THE WEST

No one can say that Kazakhstan and other states of Central Asia are being ignored by American diplomats and non-governmental experts. But this is so mainly because of their oil and the question of its delivery to Western markets. The bloody conflict in Chechnya and the armed religious movements in these countries are viewed merely as arguments pro or con for one or the other route the future gigantic pipeline might take.

I am convinced that world history is driven not by oil, but by blood. The danger of terrorist movements lies not in the fact that they may hinder the building of this or that pipeline, but in the fact that they disrupt and destroy human lives. Remember Bosnia and Kosovo. There is no oil in the Balkans, but the threat to peace which arose there forced the United States and NATO to send their troops.

If after the passing of Tito the West had not abandoned Yugoslavia to the tender mercies of Milosevich, if the democratic movements there had received support in the nineteen eighties, the dissolution of that state would not have been as tragic and prolonged. If a radio ''Free Serbia'' had begun broadcasting early enough, Milosevich would have left the scene five years ago. Instead, just as the presidents of some of the CIS countries, among them President Nazarbaev, had done, he placed his daughter at the head of state television and radio. The Serbian people became the victims of nationalist lies and have suffered for it.

Nationalism and religious extremism are the two main threats to a happy and prosperous future. Do they threaten Kazakhstan? To a great extent they do, unless the opposition forces and world opinion counter them with a democratic alternative. Otherwise no strong-hand tactics, not dictatorial regime will stand up to that threat.

Conversely, dictatorship and the corruption it breeds is likely to lead to an explosion of religious, and particularly Islamic, fanaticism. In a poor country where the ruling elite cynically robs the people and deprives them of the opportunity to express their aspirations, the emergence of religious extremism becomes unavoidable.

The average person sees that he or she cannot change anything, becomes desperate and ready to do anything. And at this moment a preacher inevitably appears saying that God will bless your protest and forgive any bloodshed. All that remains is to find the weapons, and that is not difficult in our world today.

So wherein lies the true source of religious extremism—in religion or in dictatorship which pushes people towards violence? The answer is self-evident. Leaders of some CIS regimes find it useful to have a few extremist Islamic groups handy to frighten the West.

They tell you: ''Only dictatorship can stop Islamic terror. If you do not support me, your oil pipelines will suffer''. This is a lie. This is a total reversal of cause and effect. The longer dictatorial clan-based regimes remain in power, the greater will the influence of religious fanatics become, and the more blood will be spilled eventually.

For Kazakhstan the threat of national and religious extremism is especially great. In our country there are as many Kazakhs as non-Kazakhs, as many Muslims as there are Orthodox Christians. If the danger of religious extremism arises in the predominantly Kazakh south, the Russian population which is concentrated in the north will turn to Russia for aid. The oil-rich western part of the country will proclaim its own interests. In that case the ''balkanization'' of Kazakhstan will become inevitable.

It pains me to say all this. I am asking you to help my country avoid this fate. There is no other way to achieve this than to help the people of Kazakhstan to secure those freedoms which were initially promised by the Constitution but which were then stolen: the freedom of speech, the freedom of forming political organizations, the freedom to choose one's representatives in the governing bodies. And, I beg, do not help dictators stay in power.

Our world stands on the threshold of a new millennium. There is a saying: ''As you greet the New Year, so will you live in it''. If this is true, then equally true would be the conclusion that ''as you greet a new century, so will you live in it'', or ''as you greet a new millennium, so will you live in it''. During most of the first millennium of the new era East and West existed apart from each other. During the second millennium they fought a great deal. Let us live the third millennium in peace, justice and prosperity.

I thank you for your interest in my country, Kazakhstan, and its people.

NATIONAL EXILE WARNS OF EXTREMIST THREAT IN KAZAKHSTAN

[From the Cleveland Plain Dealer, OH, Nov. 13, 1999]

(By Joe Frolik)

A Kazakhstani dissident leader in exile since April warns that his resource-rich homeland could fall prey to religious or nationalist extremists if the current regime continues to resist democratic reforms.

Akezhan Kazhegeldin told a City Club of Cleveland audience yesterday that United States and other democratic countries should continue pressing the former Soviet Republic of Kazakhstan to hold open elections, to allow a free press and to permit political dissent.

''When the average person sees that he or she cannot change anything, they become desperate and ready to do anything,'' said Kazhegeldin, Kazakhstanÿs Prime Minister before he broke with President Nursultan Nazarbaev in 1997. ''It pains me to say all this. I am asking you to help my country avoid this fate.''

Nazarbaev was Kazakhstan's communist boss at the end of the Soviet Union and became president of the newly independent republic. He has concentrated economic and political power in family members and sponsored a series of elections that have been criticized by outside observers, including the Organization for Security and Cooperation in Europe.

Last year, Nazarbaev suddenly moved the date of the next presidential election ahead two years.

Then his election commission disqualified Kazhegeldin, who most Western observers consider the country's most popular opposition figure. The reason: He had delivered a speech to an ''unauthorized'' group—Kazakhstanis for Free Elections. Kazhegeldin also was barred from last month's parliamentary ballot, though by then he had fled to Moscow and then London after being shot at and accused of corruption and money laundering.

He has denied the charges.

Nazarbaev himself is widely suspected of having profited from power.

The Guardian newspaper last year reported that he was the eighth wealthiest person in the world.

Kazakhstan covers 1 million square miles of Central Asia and borders both Russia and China.

It is believed to contain the world's largest untapped pool of oil, as well as large deposits of gold and titanium.

But unemployment is high and the average annual income is less than $1,300,according to the State Department.

Foreign investors are afraid to set up shop in Kazakhstan, Kazhegeldin said, because of an unreliable legal system.●

## RECOGNITION OF ANNE SWANT'S AP BIOLOGY CLASS IN WALLA WALLA

● Mr. GORTON. Mr. President, in November I had the pleasure of joining a unique group of students on a field trip to Coppei Creek outside of Walla Walla, Washington. The Advanced Placement biology class from Walla Walla high school, led by their teacher Anne Swant, has been engaged in an innovative program to study wild steelhead restoration and monitor water quality.

The Coppei Creek project is a collaboration between the Walla Walla conservation district, Tri-State Steelheaders, City of Waitsburg, and local landowners. This group came together after severe flooding damaged property and habitat in 1996. Their goal was to restore stream habitat for threatened steelhead while providing necessary flood control for adjacent farmlands.

As part of the ''Four Schools'' project Anne Swant's class has teamed up with John Geidl, a retired educator and executive secretary of Tri-State Steelheaders, to institute a ''classrooms in the stream'' project—teaching biology and scientific research techniques through real-life applications.

In addition to the work at Coppei Creek, the students helped design and construct in-stream habitat and riparian buffers for a fish-bearing stream on their own school campus.

For their leadership in this revolutionary program, I was proud to award Anne Swant and John Geidl one of my ''Innovation in Education'' awards for excellence and creativity in hands-on science learning and leadership in teaching community conservation.

This program, and the Coppei Creek restoration project are models of locally-driven conservation and education initiatives. This community has taken it upon itself, without unnecessary pressure from Washington DC bureaucrats, to engage in salmon habitat restoration and use it as an educational experience for future stewards of this precious resource.

Clearly, a good education in today's world requires much more than just solid academic instruction—it must also include a broader understanding of the application of those skills learned in the classroom. The Four Schools Project is an excellent example of this principle in action. I propose to my colleagues here in the Senate that this successful project is further proof that local educators will be able to make the best decisions about the unique needs of their students.●

## THE WATCHDOGS PROGRAM

● Mr. HUTCHINSON. Mr. President, I rise today to commend a special program that is having a positive impact on schools throughout my home State of Arkansas. This program is called WatchDOGS, and was founded to combat school violence in the wake of the Jonesboro tragedy by Jim Moore, PTA President of Gene George Elementary School in Sprindgale, Arkansas. Jim has informed me that the program has rapidly expanded to about 35 schools and I share in his goal of seeing it implemented in schools throughout the State of Arkansas. Furthermore, it is my hope that this program will be implemented in schools throughout the nation.

In a WatchDOGS program, fathers and grandfathers of students volunteer to spend at least one day a year in their child's school. By doing so, they not only provide unobtrusive security, but they also serve as positive role models for the children. Each school has a WatchDOGS coordinator who schedules the shifts to ensure that there is a father or grandfather on the premises at all times. WatchDOGS participate in a wide variety of school activities. For example, they read to and tutor students, participate in playground activities, eat lunch with students, and assist in the loading and unloading of school buses.

I believe that this program can be a great tool in our efforts to prevent school violence and to improve student performance because it increase parental initiative and involvement in their children's education. It can often be implemented without any expenditure of school funds as the only supplies necessary are a pair of walkie-talkies and identifying t-shirts, which are usually donated by local merchants or the PTA.

I hope that my colleagues will ask the school superintendents and principals in their respective home states to consider implementing this program in their schools. Finally, I wish to thank Jim Moore, Gene George Elementary School Principal Jim Lewis,

and all the other people who have worked so hard to develop and implement the WatchDOGS program. Thank you for helping to make Arkansas schools the safe havens of learning that they are meant to be.●

## BANKRUPTCY REFORM ACT OF 1999

H.R. 833, as amended and passed by the Senate on February 2, 2000, is as follows:

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

Strike out all after the enacting clause and insert:

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

*(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 2000''.*

*(b) TABLE OF CONTENTS.—The table of contents of 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.*
*Sec. 103. Findings and study.*
*Sec. 104. Notice of alternatives.*
*Sec. 105. Debtor financial management training test program.*
*Sec. 106. Credit counseling.*

*TITLE II—ENHANCED CONSUMER PROTECTION*

*Subtitle A—Penalties for Abusive Creditor Practices*

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

*Subtitle B—Priority Child Support*

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

*Subtitle C—Other Consumer Protections*

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

*TITLE III—DISCOURAGING BANKRUPTCY ABUSE*

*Sec. 301. Reinforcement of the fresh start.*
*Sec. 302. Discouraging bad faith repeat filings.*
*Sec. 303. Curbing abusive filings.*
*Sec. 304. Debtor retention of personal property security.*
*Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.*
*Sec. 306. Giving secured creditors fair treatment in chapter 13.*
*Sec. 307. Exemptions.*
*Sec. 308. Residency requirement for homestead exemption.*
*Sec. 309. Protecting secured creditors in chapter 13 cases.*
*Sec. 310. Limitation on luxury goods.*
*Sec. 311. Automatic stay.*
*Sec. 312. Extension of period between bankruptcy discharges.*
*Sec. 313. Definition of household goods and antiques.*
*Sec. 314. Debt incurred to pay nondischargeable debts.*
*Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.*
*Sec. 316. Dismissal for failure to timely file schedules or provide required information.*
*Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.*
*Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.*
*Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.*
*Sec. 320. Prompt relief from stay in individual cases.*
*Sec. 321. Chapter 11 cases filed by individuals.*
*Sec. 322. Excluding employee benefit plan participant contributions and other property from the estate.*
*Sec. 323. Clarification of postpetition wages and benefits.*
*Sec. 324. Limitation.*
*Sec. 325. Exclusive jurisdiction in matters involving bankruptcy professionals.*
*Sec. 326. United States trustee program filing fee increase.*
*Sec. 327. Compensation of trustees in certain cases under chapter 7 of title 11, United States Code.*
*Sec. 328. Nondischargeability of debts incurred through the commission of violence at clinics.*

*TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS*

*Subtitle A—General Business Bankruptcy Provisions*

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

*Subtitle B—Small Business Bankruptcy Provisions*

*Sec. 431. Flexible rules for disclosure statement and plan.*
*Sec. 432. Definitions; effect of discharge.*
*Sec. 433. Standard form disclosure statement and plan.*
*Sec. 434. Uniform national reporting requirements.*
*Sec. 435. Uniform reporting rules and forms for small business cases.*
*Sec. 436. Duties in small business cases.*
*Sec. 437. Plan filing and confirmation deadlines.*
*Sec. 438. Plan confirmation deadline.*
*Sec. 439. Duties of the United States trustee.*
*Sec. 440. Scheduling conferences.*
*Sec. 441. Serial filer provisions.*
*Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.*
*Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.*
*Sec. 444. Payment of interest.*
*Sec. 445. Technical correction.*

*TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS*

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

*TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA*

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

*TITLE VII—BANKRUPTCY TAX PROVISIONS*

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

*TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES*

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

*TITLE IX—FINANCIAL CONTRACT PROVISIONS*

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

*TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN*

*Sec. 1001. Reenactment of chapter 12.*
*Sec. 1002. Debt limit increase.*
*Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.*
*Sec. 1004. Certain claims owed to governmental units.*
*Sec. 1005. Prohibition of retroactive assessment of disposable income.*
*Sec. 1006. Family fishermen.*

*TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS*

*Sec. 1101. Definitions.*
*Sec. 1102. Disposal of patient records.*
*Sec. 1103. Administrative expense claim for costs of closing a health care business.*
*Sec. 1104. Appointment of ombudsman to act as patient advocate.*
*Sec. 1105. Debtor in possession; duty of trustee to transfer patients.*
*Sec. 1106. Establishment of policy and protocols relating to bankruptcies of health care businesses.*
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## *TITLE I—NEEDS-BASED BANKRUPTCY*

***SEC. 101. CONVERSION.***

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

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

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

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

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

*and*

*(2) in subsection (b)—*

*(A) by inserting ''(1)'' after ''(b)'';*

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

*(i) in the first sentence—*

*(I) by striking ''but not at the request or suggestion'' and inserting '', panel trustee or'';*

*(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,'' after ''consumer debts''; and*

*(III) by striking ''substantial abuse'' and inserting ''abuse''; and*

*(ii) by striking the next to last sentence; and*

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

*''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—*

*''(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or*

*''(II) $15,000.*

*''(ii)(I) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court.*

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

*''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—*

*''(I) the sum of—*

*''(aa) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and*

*''(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by*

*''(II) 60.*

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

*''(I) the total amount of debts entitled to priority; divided by*

*''(II) 60.*

*''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—*

*''(I) itemize each additional expense or adjustment of income; and*

*''(II) provide—*

*''(aa) documentation for such expenses; and*

*''(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.*

*''(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.*

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

*''(I) 25 percent of the debtor's nonpriority unsecured claims; or*

*''(II) $15,000.*

*''(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.*

*''(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.*

*''(3) In considering under paragraph (1) whether the granting of relief would be an*

*abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—*

*''(A) whether the debtor filed the petition in bad faith; or*

*''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.''.*

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

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

*''(10A) 'current monthly income'—*

*''(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination; and*

*''(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act;''; and*

*(2) in section 704—*

*(A) by inserting ''(a)'' before ''The trustee shall—''; and*

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

*''(b)(1) With respect to an individual debtor under this chapter—*

*''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and*

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

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

*''(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or*

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

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

*''(A)(i) exceeds 100 percent, but does not exceed 150 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or*

*''(ii) in the case of a household of 1 person, exceeds 100 percent but does not exceed 150 percent of the national or applicable State median household income reported for 1 earner, whichever is greater; and*

*''(B) the product of the debtor's current monthly income (reduced by the amounts determined under section 707(b)(2)(A)(ii)) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service and section 707(b)(2)(A) (iii) and (iv)) multiplied by 60 is less than the greater of—*

*''(i) 25 percent of the debtor's nonpriority unsecured claims in the case; or*

*''(ii) $15,000.*

*''(4)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—*

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

*''(ii) the court—*

*''(I) grants that motion; and*

*''(II) finds that the action of the counsel for the debtor in filing under this chapter was frivolous.*

*''(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).*

*''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), 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).*

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

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

*''(ii) in the case of a household of 1 person, the national or applicable State median household income last reported by the Bureau of the Census for 1 earner, whichever is greater.*

*''(B) Notwithstanding subparagraph (A), the national or applicable State median family income for a family of more than 4 individuals shall be the national or applicable State median family income last reported by the Bureau of the Census for a family of 4 individuals, whichever is greater, plus $583 for each additional member of that family.''.*

*(c) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge, United States trustee, bankruptcy administrator or panel trustee.*

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

*''(c)(1) In this subsection—*

*''(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and*

*''(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.*

*''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, or at the request of a party in interest, shall dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.*

*''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.*

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

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

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

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

*(b) STUDY.—*

*(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Director of the Executive Office of United States Trustees, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Secretary concerning the utilization of Internal Revenue Service standards for determining—*

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

*(B) the impact that the application of those standards has had on debtors and on the bankruptcy courts.*

*(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Secretary of the Treasury under paragraph (1).*

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

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

*''(b)(1) 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 I 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.*

*''(2) The notice shall contain the following:*

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

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

***SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.***

*(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall—*

*(1) consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and*

*who operate financial management education programs for debtors; and*

*(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.*

*(b) TEST.—*

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

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

*(c) EVALUATION.—*

*(1) IN GENERAL.—During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—*

*(A) the financial management training curriculum and materials developed under subsection (a); and*

*(B) a sample of existing consumer education programs such as those described in the report of the National Bankruptcy Review Commission issued on October 20, 1997, that are representative of consumer education programs carried out by—*

*(i) the credit industry;*

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

*(iii) consumer counseling groups.*

*(2) REPORT.—Not later than 3 months after concluding the evaluation under paragraph (1), the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.*

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

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

*''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.*

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

*''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.*

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

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

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

*''(iii) is satisfactory to the court.*

*''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.''.*

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

*(1) in paragraph (9), by striking ''or'' at the end;*

*(2) in paragraph (10), by striking the period and inserting ''; or''; and*

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

*''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.''.*

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

*''(g) 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.*

*''(h) Subsection (g) 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 instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.*

*''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.*

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

*(1) by inserting ''(a)'' before ''The debtor shall—''; and*

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

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

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

*''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).''.*

*(e) GENERAL PROVISIONS.—*

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

***''§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses***

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

*''(1) the United States trustee; or*

*''(2) the bankruptcy administrator for the district.*

*''(b) For inclusion on the approved list under subsection (a), the United States trustee or bankruptcy administrator shall require the credit counseling service, at a minimum—*

*''(1) to be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—*

*''(A) are not employed by the agency; and*

*''(B) will not directly or indirectly benefit financially from the outcome of a credit counseling session;*

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

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

*''(4) to provide full disclosures to clients, including funding sources, counselor qualifications, and possible impact on credit reports;*

*''(5) to provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts; and*

*''(6) to provide trained counselors who receive no commissions or bonuses based on the counseling session outcome.*

*''(c)(1) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.*

*''(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—*

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

*''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.*

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

*''111. Nonprofit budget and credit counseling agencies; financial management instructional courses.''.*

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

*''(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.''.*

***TITLE II—ENHANCED CONSUMER PROTECTION***

***Subtitle A—Penalties for Abusive Creditor Practices***

***SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.***

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

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

*''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor;*

*''(B) the offer of the debtor under subparagraph (A)—*

*''(i) was made at least 60 days before the filing of the petition; and*

*''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not*

*to exceed the repayment period of the loan, or a reasonable extension thereof; and*

*''(C) no part of the debt under the alternative repayment schedule is nondischargeable.*

*''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—*

*''(A) the creditor unreasonably refused to consider the debtor's proposal; and*

*''(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).''.*

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

*''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.*

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

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

*''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) 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).''.*

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

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

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

*''(2) the debtor received the disclosures described in subsection (i) at or before the time the debtor signed the agreement.'';*

*(2) by inserting at the end of the section the following:*

*''(i)(1) The disclosures required under subsection (c) paragraph (2) of this section shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8) of this subsection, and shall be the only disclosures required in connection with the reaffirmation.*

*''(2) Disclosures made under this paragraph shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.*

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

*''(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';*

*''(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';*

*''(C) The 'Amount Reaffirmed', using that term, which shall be—*

*''(i) the total amount which the debtor agrees to reaffirm, and*

*''(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.*

*''(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—*

*''(i) 'The amount of debt you have agreed to reaffirm'; and*

*''(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.*

*''(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—*

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

*''(I) the annual percentage rate determined pursuant to title 15, United States Code, section 1637(b) (5) and (6), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior six months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then*

*''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or*

*''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II);*

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

*''(I) the annual percentage rate pursuant to title 15, United States Code, section 1638(a)(4) as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then*

*''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or*

*''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).*

*''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given pursuant to the Truth in Lending Act, title 15, United States Code, section 1601 et seq., by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.*

*''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.*

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

*''(i) by making the statement: 'Your first payment in the amount $_____ is due on _____ but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;*

*''(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or*

*''(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.*

*''(I) The following statement: 'Note: When this disclosure talks about what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'.*

*''(J) The following additional statements:*

*'' 'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.*

*'' '1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).*

*'' '2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.*

*'' '3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.*

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

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

*'' '6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.*

*'' '7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.*

*'' 'Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.*

*'' 'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement and/or applicable law to change the*

*terms of the agreement in the future under certain conditions.*

*''''Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.*

*''''What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.*

*''(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:*

*''''Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.*

*''''Brief description of credit agreement:*

*''''Description of any changes to the credit agreement made as part of this reaffirmation agreement:*

*''''Signature: Date:*

*''''Borrower:*

*''''Co-borrower, if also reaffirming:*

*''''Accepted by creditor:*

*''''Date of creditor acceptance:'.*

*''(5)(A) The declaration shall consist of the following:*

*''''Part C: Certification by Debtor's Attorney (If Any).*

*''''I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.*

*''''Signature of Debtor's Attorney: Date:'.*

*''(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.*

*''(6) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:*

*''''Part D: Debtor's Statement in Support of Reaffirmation Agreement.*

*''''1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.*

*''''2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.*

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

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

*''''I am not represented by an attorney in connection with this reaffirmation agreement.*

*''''I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):*

*''''Therefore, I ask the court for an order approving this reaffirmation agreement.'.*

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

*''''Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.*

*''(j) Notwithstanding any other provision of this title:*

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

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

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

*''(k) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (i)(6) of this section is less than the scheduled payments on the reaffirmed debt. This presumption must be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. However, no agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing must be concluded before the entry of the debtor's discharge.''.*

*(b) LAW ENFORCEMENT.—*

*(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:*

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

*''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.*

*''(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are—*

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

*''(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.*

*''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.*

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

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

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

***Subtitle B—Priority Child Support***

***SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.***

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

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

*(2) by inserting after paragraph (14) the following:*

*''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—*

*''(A) owed to or recoverable by—*

*''(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or*

*''(ii) a governmental unit;*

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

*''(C) established or subject to establishment before or after 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, legal guardian, or responsible relative of the child for the purpose of collecting the debt.''.*

***SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.***

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

*(1) by striking paragraph (7);*

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

*(3) in paragraph (2), as 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:*

*''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible*

*relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.*

*''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.''.*

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

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

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

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

*(2) in section 1208(c)—*

*(A) in paragraph (8), by striking ''or'' at the end;*

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

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

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

*(3) in section 1222(a)—*

*(A) in paragraph (2), by striking ''and'' at the end;*

*(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and*

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

*''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.'';*

*(4) in section 1222(b)—*

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

*(B) by inserting after paragraph (9) the following:*

*''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';*

*(5) in section 1225(a)—*

*(A) in paragraph (5), by striking ''and'' at the end;*

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

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

*''(7) 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 first become payable after the date on which the petition is filed.'';*

*(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor 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 the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';*

*(7) in section 1307(c)—*

*(A) in paragraph (9), by striking ''or'' at the end;*

*(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and*

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

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

*(8) in section 1322(a)—*

*(A) in paragraph (2), by striking ''and'' at the end;*

*(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and*

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

*''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';*

*(9) in section 1322(b)—*

*(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;*

*(B) by redesignating paragraph (10) as paragraph (11); and*

*(C) inserting after paragraph (9) the following:*

*''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';*

*(10) in section 1325(a)—*

*(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 amounts payable after the date on which the petition is filed.''; and*

*(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor 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 the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.*

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

*Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:*

*''(2) under subsection (a)—*

*''(A) of the commencement or continuation of a civil action or proceeding—*

*''(i) for the establishment of paternity;*

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

*''(iii) concerning child custody or visitation;*

*''(iv) for the dissolution of a marriage except to the extent that such a proceeding seeks to determine the division of property which is property of the estate; or*

*''(v) regarding domestic violence;*

*''(B) the collection of a domestic support obligation from property that is not property of the estate;*

*''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation pursuant to a judicial or administrative order;*

*''(D) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16));*

*''(E) the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));*

*''(F) 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 under an analogous State law; or*

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

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

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

*(1) in subsection (a)—*

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

*''(5) for a domestic support obligation;'';*

*(B) in paragraph (15)—*

*(i) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';*

*(ii) by inserting ''or'' after ''court of record''; and*

*(iii) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon; and*

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

*(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''.*

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

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

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

*''(1) a debt of a kind specified in paragraph (1) or (4) 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)(4));''; and*

*(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)(4); or''.*

***SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.***

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

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

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

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

*(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a domestic support obligation that first becomes payable after the date on which the petition is filed'' after ''dependent of the debtor''.*

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

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

*(1) in subsection (a)—*

*(A) in paragraph (8), by striking ''and'' at the end;*

*(B) in paragraph (9), by striking the period and inserting ''; and''; and*

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

*''(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).''; and*

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

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

*''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666, respectively) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures;*

*''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and*

*''(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; and*

*''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;*

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

*''(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—*

*''(I) the granting of the discharge;*

*''(II) the last recent known address of the debtor;*

*''(III) the last recent known name and address of the debtor's employer; and*

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

*''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or*

*''(bb) was reaffirmed by the debtor under section 524(c).*

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

*''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.*

*(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (6), by striking ''and'' at the end;*

*(B) in paragraph (7), by striking the period and inserting ''; and''; and*

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

*''(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).''; and*

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

*''(c)(1) In any case described in subsection (a)(7), the trustee shall—*

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

*''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and*

*''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;*

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

*''(iii) at such time as the debtor is granted a discharge under section 1141, notify the holder of the claim and the State child support agency of the State in which that holder resides of—*

*''(I) the granting of the discharge;*

*''(II) the last recent known address of the debtor;*

*''(III) the last recent known name and address of the debtor's employer; and*

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

*''(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or*

*''(bb) was reaffirmed by the debtor under section 524(c).*

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

*''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.*

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

*(1) in subsection (b)—*

*(A) in paragraph (4), by striking ''and'' at the end;*

*(B) in paragraph (5), by striking the period and inserting ''; and''; and*

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

*''(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c).''; and*

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

*''(c)(1) In any case described in subsection (b)(6), the trustee shall—*

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

*''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and*

*''(B)(i) notify, in writing, the State child support agency (of the State in which the holder of the claim resides) of the claim;*

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

*''(iii) at such time as the debtor is granted a discharge under section 1228, notify the holder of the claim and the State child support agency of the State in which that holder resides of—*

*''(I) the granting of the discharge;*

*''(II) the last recent known address of the debtor;*

*''(III) the last recent known name and address of the debtor's employer; and*

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

*''(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or*

*''(bb) was reaffirmed by the debtor under section 524(c).*

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

*''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.*

*(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—*

*(1) in subsection (b)—*

*(A) in paragraph (4), by striking ''and'' at the end;*

*(B) in paragraph (5), by striking the period and inserting ''; and''; and*

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

*''(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d); and*

*''(7) provide information relating to the administration of cases that is practical to any not-for-profit entity which shall provide information to parties in interest in a timely and convenient manner, including telephonic and Internet access, at no cost or a nominal cost.*

*An entity described in paragraph (7) shall provide parties in interest with reasonable information about each case on behalf of the trustee of that case, including the status of the debtor's payments to the plan, the unpaid balance payable to each creditor treated by the plan, and the amount and date of payments made under the plan. The trustee shall have no duty to provide information under paragraph (7) if no such entity has been established.''; and*

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

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

*''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666, respectively) for the State in which the holder resides; and*

*''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and*

*''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;*

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

*''(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—*

*''(I) the granting of the discharge;*

*''(II) the last recent known address of the debtor;*

*''(III) the last recent known name and address of the debtor's employer; and*

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

*''(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or*

*''(bb) was reaffirmed by the debtor under section 524(c).*

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

*''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.*

***SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.***

*Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:*

*''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—*

*''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or*

*''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or*

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

***Subtitle C—Other Consumer Protections***

***SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.***

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

*(1) in subsection (a)(1), by inserting '', under the direct supervision of an attorney,'' after ''who'';*

*(2) in subsection (b)—*

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

*''(A) sign the document for filing; and*

*''(B) print on the document the name and address of that officer, principal, responsible person or partner.'';*

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

*''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.*

*''(B) The notice under subparagraph (A)—*

*''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;*

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

*''(iii) shall—*

*''(I) be signed by—*

*''(aa) the debtor; and*

*''(bb) the bankruptcy petition preparer, under penalty of perjury; and*

*''(II) be filed with any document for filing.'';*

*(3) in subsection (c)—*

*(A) in paragraph (2)—*

*(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and*

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

*''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.''; and*

*(B) by striking paragraph (3);*

*(4) in subsection (d)—*

*(A) by striking ''(d)(1)'' and inserting ''(d)''; and*

*(B) by striking paragraph (2);*

*(5) in subsection (e)—*

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

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

*''(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).*

*''(B) The legal advice referred to in subparagraph (A) includes advising the debtor—*

*''(i) whether—*

*''(I) to file a petition under this title; or*

*''(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;*

*''(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;*

*''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;*

*''(iv) concerning—*

*''(I) the tax consequences of a case brought under this title; or*

*''(II) the dischargeability of tax claims;*

*''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;*

*''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or*

*''(vii) concerning bankruptcy procedures and rights.'';*

*(6) in subsection (f)—*

*(A) by striking ''(f)(1)'' and inserting ''(f)''; and*

*(B) by striking paragraph (2);*

*(7) in subsection (g)—*

*(A) by striking ''(g)(1)'' and inserting ''(g)''; and*

*(B) by striking paragraph (2);*

*(8) in subsection (h)—*

*(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;*

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

*''(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';*

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

*(i) by striking ''Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';*

*(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and*

*(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';*

*(D) by striking paragraph (3), as redesignated by subparagraph (A) of this paragraph, and inserting the following:*

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

*''(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or*

*''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).*

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

*''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and*

*(E) in paragraph (4), as redesignated by subparagraph (A) of this paragraph, by striking ''or the United States trustee'' and inserting ''the United States trustee, or the court, on the initiative of the court,'';*

*(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:*

*''(i) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, or United States trustee, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—'';*

*(10) in subsection (j)—*

*(A) in paragraph (2)—*

*(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';*

*(ii) in subparagraph (B)—*

*(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and*

*(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';*

*(B) by redesignating paragraph (3) as paragraph (4); and*

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

*''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, or the United States trustee.''; and*

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

*''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.*

*''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—*

*''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;*

*''(B) advised the debtor to use a false Social Security account number;*

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

*''(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.*

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

*''(4) All fines imposed under this section shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this paragraph shall be available to fund the enforcement of this section on a national basis.''.*

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

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

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

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

*''(10) Tenth, 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) VESSELS.—Section 523(a)(8) of title 11, United States Code, is amended by inserting ''or vessel'' after ''vehicle''.*

***SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.***

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

*(1) in subsection (b)—*

*(A) in paragraph (2)—*

*(i) by striking ''(2)(A) any property'' and inserting:*

*''(3) 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.'';*

*(B) by striking paragraph (1) and inserting:*

*''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';*

*(C) 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) and subsection (d)(12), 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 of this title, those funds shall be presumed to be exempt from the estate.*

*''(B) If the retirement funds are in a retirement fund that has not received a favorable determination 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 the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.*

*''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, 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) or subsection (d)(12) 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) or subsection (d)(12) 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)''; and*

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

*''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.*

*(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 214 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 or is subject to section 72(p) of the Internal Revenue Code of 1986; 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 such title;''; and*

*(4) by adding at the end of the flush material at the end of the subsection, the following: ''Nothing in paragraph (20) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.*

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

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

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

*''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''*

*(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. 225. PROTECTION OF EDUCATION SAVINGS.***

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

*(1) in subsection (b)—*

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

*(B) by inserting after paragraph (5) the following:*

*''(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—*

*''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;*

*''(B) only to the extent that such funds—*

*''(i) are not pledged or promised to any entity in connection with any extension of credit; and*

*''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and*

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

*''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—*

*''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;*

*''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and*

*''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and*

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

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

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

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

## *TITLE III—DISCOURAGING BANKRUPTCY ABUSE*

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

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

*(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',*

*(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and*

*(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.*

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

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

*(1) in paragraph (1), by striking ''and'' at the end;*

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

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

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

*''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case;*

*''(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and*

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

''(i) as to all creditors, if—

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

''(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

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

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

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

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

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

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

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

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

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

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

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

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real 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 under 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 224 of this Act, is amended—

(1) in paragraph (19), by striking ''or'' at the end;

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

(3) by inserting after paragraph (20) the following:

''(21) under subsection (a), 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, 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

''(22) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a 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.''.

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

(1) in the first sentence, by striking ''subsection (b) of this section'' and inserting ''subsection (b), other than under paragraph (3)(C) of that subsection''; and

(2) in the second sentence—

(A) by inserting ''(other than property described in subsection (b)(3)(C))'' after ''property'' each place it appears; and

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

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

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated by section 106(d) of this Act—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest under section 722.''; and

(D) by adding at the end the following:

''(c) For purposes of subsection (a)(6), if the debtor fails to so act within the 45-day period specified in subsection (a)(6), the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

**SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.**

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)''; and

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

''(h)(1) Subject to paragraph (2), 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, or subject to an unexpired lease, if the debtor fails within the applicable period of time set by section 521(a)(2) to—

''(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

''(i) will either surrender the property or retain the property; and

''(ii) if retaining the property, will, as applicable—

''(I) redeem the property under section 722;

''(II) reaffirm the debt the property secures under section 524(c); or

''(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

''(B) take timely the action specified in that statement of intention, as the statement may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) shall not apply if the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

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

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

(i) by striking ''consumer'';

(ii) in subparagraph (B)—

(I) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

*(II) by striking ''forty-five day period'' and inserting ''30-day period''; and*

*(iii) in subparagraph (C), by inserting ''except as provided in section 362(h)'' before the semicolon; and*

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

*''(d) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under that lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.*

***SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.***

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

*''(i) the plan provides that—*

*''(I) the holder of such claim retain the lien securing such claim until the earlier of—*

*''(aa) the payment of the underlying debt determined under nonbankruptcy law; or*

*''(bb) discharge under section 1328; and*

*''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.*

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

*''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.''.*

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

*(1) by inserting after paragraph (13) the following:*

*''(13A) 'debtor's principal residence'—*

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

*''(B) includes an individual condominium or cooperative unit;''; and*

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

*''(27A) 'incidental property' means, with respect to a debtor's principal residence—*

*''(A) property commonly conveyed with a principal residence in the area where the real 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. 307. EXEMPTIONS.***

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

*(1) by striking ''180'' and inserting ''730''; and*

*(2) by striking '', or for a longer portion of such 180-day period than in any other place''.*

***SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.***

*Section 522 of title 11, United States Code, as amended by section 307 of this Act, is amended—*

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

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

*''(n) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—*

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

*''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or*

*''(3) a burial plot for the debtor or a dependent of the debtor;*

*shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending on the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.*

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

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

*(1) in subparagraph (A), by striking ''and'' at the end;*

*(2) in subparagraph (B)—*

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

*(B) by striking the period and inserting ''; and''; and*

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

*''(C) with respect to cases converted from chapter 13—*

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

*''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.*

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

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

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

*''(B) If within 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.*

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

*''(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.*

*(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—*

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

*(A) in clause (i), by striking ''and'' at the end;*

*(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and*

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

*''(iii) if—*

*''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and*

*''(II) the holder of the claim is secured by personal property the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.*

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

*''(a)(1) Unless the court orders otherwise, the debtor shall—*

*''(A) commence making the payments proposed by a plan within 30 days after the plan is filed; or*

*''(B) if no plan is filed then as specified in the proof of claim, within 30 days after the order for relief or within 15 days after the plan is filed, whichever is earlier.*

*''(2) A payment made under this section shall be retained by the trustee until confirmation, denial of confirmation, or paid by the trustee as adequate protection payments in accordance with paragraph (3). If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).*

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

*''(i) pay from payments made under this section the adequate protection payments proposed in the plan; or*

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

*''(B) The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this paragraph pending confirmation of a plan.''.*

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

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

*''(C)(i) for purposes of subparagraph (A)—*

*''(I) consumer debts owed to a single creditor and aggregating more than $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and*

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

*''(ii) for purposes of this subparagraph—*

*''(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the*

*Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);*

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

*''(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.*

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

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

*(1) in paragraph (21), by striking ''or'' at the end;*

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

*(3) by inserting after paragraph (22) the following:*

*''(23) under subsection (a)(3), 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;*

*''(24) under subsection (a)(3), of the commencement 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 under the lease agreement or applicable State law; or*

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

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

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

*(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and*

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

*''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.''.*

***SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.***

*Section 522(f) of title 11, United States Code, is amended by adding at the end the following:*

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

*''(i) clothing;*

*''(ii) furniture;*

*''(iii) appliances;*

*''(iv) 1 radio;*

*''(v) 1 television;*

*''(vi) 1 VCR;*

*''(vii) linens;*

*''(viii) china;*

*''(ix) crockery;*

*''(x) kitchenware;*

*''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;*

*''(xii) medical equipment and supplies;*

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

*''(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.*

*''(B) The term 'household goods' does not include—*

*''(i) works of art (unless by or of the debtor or the dependents of the debtor);*

*''(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);*

*''(iii) items acquired as antiques;*

*''(iv) jewelry (except wedding rings); and*

*''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.*

***SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.***

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

*''(14A)(A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(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; except that*

*''(B) all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);''.*

*(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:*

*''(1) provided for under section 1322(b)(5);*

*''(2) of the kind specified in paragraph (2), (3), (4), (7), or (8), of section 523(a);*

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

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

***SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.***

*(a) NOTICE.—Section 342 of title 11, United States Code, is amended—*

*(1) in subsection (c)—*

*(A) by inserting ''(1)'' after ''(c)''; and*

*(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and*

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

*''(d) At any time, a creditor, in a case of an individual debtor 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. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.*

*''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such 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 (d) with respect to a particular case.*

*''(f)(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. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.*

*''(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.*

*(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 305 of this Act, is amended—*

*(1) in subsection (a), 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 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 before the filing of the petition;*

*''(v) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and*

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

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

*''(e)(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 request those documents.*

*''(2)(A) 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.*

*''(B) The court shall make such plan available to the creditor who request such plan—*

*''(i) at a reasonable cost; and*

*''(ii) not later than 5 days after such request.*

*''(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of any party in interest—*

*''(1) at the time filed with the taxing authority, all tax returns required under applicable law, 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 required under applicable law, 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 of 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.*

*''(g)(1) A statement referred to in subsection (f)(4) shall disclose—*

*''(A) the amount and sources of income of the debtor;*

*''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and*

*''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.*

''(2) The tax returns, amendments, and statement of income and expenditures described in 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 (h).

''(h)(1) Not later than 30 days after the date of enactment of the Bankruptcy Reform Act of 2000, 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 Bankruptcy Reform Act of 2000, 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 to—

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

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

''(i) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

**SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.**

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

''(j)(1) Notwithstanding section 707(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 subsection (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. If requested, the court shall enter an order of dismissal not later than 5 days after such 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 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

**SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.**

(a) HEARING.—Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

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

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not later than 45 days after the meeting of creditors under section 341(a).''.

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

**''§ 1321. Filing of plan**

''Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, 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.''.

**SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.**

Section 1322(d) of title 11, United States Code, is amended to read as follows:

''(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

''(2) The plan may provide for payments over a period that is longer than 3 years if—

''(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, or the plan is for a debtor who has been dismissed from chapter 7 by reason of section 707(b), in which case the plan shall provide for payments over a period of 5 years; or

''(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.''.

**SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.**

It is the sense of Congress that Rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

**SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.**

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

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in 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, as described in findings made by the court.''.

**SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.**

(a) PROPERTY OF THE ESTATE.—

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

**''§ 1115. Property of the estate**

''In a case concerning an individual, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

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

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(14) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 3-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)''.

(d) EFFECT OF CONFIRMATION—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge a debtor''; and

(2) by adding at the end the following:

''(5) In a case concerning an individual—

''(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payment under the plan; and

''(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

''(i) for each allowed unsecured claim, the value as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

''(ii) modification of the plan under 1127 of this title is not practicable.''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.''.

**SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.**

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, as amended by section 903 of this Act, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

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

''(6) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

''(ii) a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by the employer from employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of the enactment of this Act.

**SEC. 323. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.**

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded as back pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered;''.

**SEC. 324. LIMITATION.**

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 307 of this Act, is amended—

(1) in subsection (b)(3)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that 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)(3)(A) by a family farmer for the principal residence of that farmer.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''522(d),'' and inserting ''522 (d) or (n),''; and

(2) in paragraph (3), by striking ''522(d),'' and inserting ''522 (d) or (n),''.

**SEC. 325. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.**

Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b) by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) amending subsection (e) to read as follows:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

**SEC. 326. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.**

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

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

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2) by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4) by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

**SEC. 327. COMPENSATION OF TRUSTEES IN CERTAIN CASES UNDER CHAPTER 7 OF TITLE 11, UNITED STATES CODE.**

Section 326 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case that has been converted under section 706, or after a case has been converted or dismissed under section 707 or the debtor has been denied a discharge under section 727—

''(1) the court may allow reasonable compensation under section 330 for the trustee's services rendered, payable after the trustee renders services; and

''(2) any allowance made by a court under paragraph (1) shall not be subject to the limitations under subsection (a).''.

**SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH THE COMMISSION OF VIOLENCE AT CLINICS.**

Section 523(a) of title 11, United States Code, as amended by section 224 of this Act, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19)(B), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an actual or potential action under section 248 of title 18;

''(B) an actual or potential action under any Federal, State, or local law, the purpose of which is to protect—

''(i) access to a health care facility, including a facility providing reproductive health services, as defined in section 248(e) of title 18 (referred to in this paragraph as a 'health care facility'); or

''(ii) the provision of health services, including reproductive health services (referred to in this paragraph as 'health services');

''(C) an actual or potential action alleging the violation of any Federal, State, or local statutory or common law, including chapter 96 of title 18 and the Federal civil rights laws (including sections 1977 through 1980 of the Revised Statutes) that results from the debtor's actual, attempted, or alleged—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against any person—

''(I) because that person provides or has provided health services;

''(II) because that person is or has been obtaining health services; or

''(III) to deter that person, any other person, or a class of persons from obtaining or providing health services; or

''(ii) damage or destruction of property of a health care facility; or

''(D) an actual or alleged violation of a court order or injunction that protects access to a health care facility or the provision of health services.''.

## TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

### Subtitle A—General Business Bankruptcy Provisions

**SEC. 401. 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. 402. ADEQUATE PROTECTION FOR INVESTORS.**

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 306(c) of this Act, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

(1) in paragraph (24), by striking ''or'' at the end;

(2) in paragraph (25), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (25) the following:

''(26) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

**SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.**

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

**SEC. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.**

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

**SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(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. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.**

(a) APPOINTMENT.—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. The court may increase

*the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.*

*(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:*

*''(3) A committee appointed under subsection (a) shall—*

*''(A) provide access to information for creditors who—*

*''(i) hold claims of the kind represented by that committee; and*

*''(ii) are not appointed to the committee;*

*''(B) solicit and receive comments from the creditors described in subparagraph (A); and*

*''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.*

**SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.**

*Section 546 of title 11, United States Code, is amended—*

*(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and*

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

*''(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods.*

*''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code.''.*

**SEC. 408. LIMITATION.**

*Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.*

**SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.**

*Section 330(a)(3) of title 11, United States Code, is amended—*

*(1) by striking ''(A) the; and inserting ''(i) the'';*

*(2) by striking ''(B)'' and inserting ''(ii)'';*

*(3) by striking ''(C)'' and inserting ''(iii)'';*

*(4) by striking ''(D)'' and inserting ''(iv)'';*

*(5) by striking ''(E)'' and inserting ''(v)'';*

*(6) in subparagraph (A), by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and*

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

*''(B) 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.''.*

**SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.**

*Section 1125 of title 11, United States Code, is amended by adding at the end the following:*

*''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.*

**SEC. 411. PREFERENCES.**

*Section 547(c) of title 11, United States Code, is amended—*

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

*''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—*

*''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or*

*''(B) made according to ordinary business terms;'';*

*(2) in paragraph (7) by striking ''or'' at the end;*

*(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and*

*(4) by adding at the end the following:*

*''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.*

**SEC. 412. VENUE OF CERTAIN PROCEEDINGS.**

*Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.*

**SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

*Section 1121(d) of title 11, United States Code, is amended—*

*(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and*

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

*''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.*

*''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.*

**SEC. 414. 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 ''but nothing in this paragraph'' 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, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph''.*

**SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.**

*Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.*

**SEC. 416. DEFINITION OF DISINTERESTED PERSON.**

*Section 101(14) of title 11, United States Code, is amended to read as follows:*

*''(14) 'disinterested person' means a person that—*

*''(A) is not a creditor, an equity security holder, or an insider;*

*''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and*

*''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.*

**SEC. 417. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.**

*Section 330(a)(3)(A) of title 11, United States Code, as amended by section 409 of this Act, is amended—*

*(1) in clause (i), by striking ''and'' at the end;*

*(2) by redesignating clause (v) as clause (vi); and*

*(3) by inserting after clause (iv) the following:*

*''(v) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;''.*

**SEC. 418. APPOINTMENT OF ELECTED TRUSTEE.**

*Section 1104(b) of title 11, United States Code, is amended—*

*(1) by inserting ''(1)'' after ''(b)''; and*

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

*''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.*

*''(B) Upon the filing of a report under subparagraph (A)—*

*''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and*

*''(ii) the service of any trustee appointed under subsection (d) shall terminate.*

*''(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.''.*

**SEC. 419. UTILITY SERVICE.**

*Section 366 of title 11, United States Code, is amended—*

*(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and*

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

*''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—*

*''(i) a cash deposit;*

*''(ii) a letter of credit;*

*''(iii) a certificate of deposit;*

*''(iv) a surety bond;*

*''(v) a prepayment of utility consumption; or*

*''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.*

*''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.*

*''(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 20-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.*

*''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).*

*''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—*

*''(i) the absence of security before the date of filing of the petition;*

*''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or*

*''(iii) the availability of an administrative expense priority.*

*''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.''.*

**SEC. 420. BANKRUPTCY FEES.**

*Section 1930 of title 28, United States Code, is amended—*

*(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the 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 whose income is less than 125 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved 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 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 with an income at a level described in paragraph (2) is unable to pay that fee in installments.''.

**SEC. 421. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.**

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for the United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

**Subtitle B—Small Business Bankruptcy Provisions**

**SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.**

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

**SEC. 432. DEFINITIONS; EFFECT OF DISCHARGE.**

(a) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 402 of this Act, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning and operating real property and activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $3,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

**SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.**

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

**SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.**

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

**''§ 308. Debtor reporting requirements**

''(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(2) A small business debtor shall file periodic financial and other reports containing information including—

''(A) the debtor's profitability;

''(B) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(D)(i) whether the debtor is—

''(I) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(II) timely filing tax returns and other required government filings and paying taxes and other administrative claims when due; and

''(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and other required government filings and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(iii) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

**SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.**

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

**SEC. 436. DUTIES IN SMALL BUSINESS CASES.**

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by section 321 of this Act, is amended by adding at the end the following:

**''§ 1116. Duties of trustee or debtor in possession in small business cases**

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 7 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice

*and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;*

*''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;*

*''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;*

*''(6)(A) timely file tax returns and other required government filings; and*

*''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and*

*''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:*

*''1116. Duties of trustee or debtor in possession in small business cases.''.*

***SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.***

*Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:*

*''(e) In a small business case—*

*''(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—*

*''(A) extended as provided by this subsection, after notice and hearing; or*

*''(B) the court, for cause, orders otherwise;*

*''(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and*

*''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—*

*''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;*

*''(B) a new deadline is imposed at the time the extension is granted; and*

*''(C) the order extending time is signed before the existing deadline has expired.''.*

***SEC. 438. PLAN CONFIRMATION DEADLINE.***

*Section 1129 of title 11, United States Code, is amended by adding at the end the following:*

*''(e) In a small business case, the plan shall be confirmed not later than 175 days after the date of the order for relief, unless such 175-day period is extended as provided in section 1121(e)(3).''.*

***SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.***

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

*(1) in paragraph (3)—*

*(A) in subparagraph (G), by striking ''and'' at the end;*

*(B) by redesignating subparagraph (H) as subparagraph (I); and*

*(C) by inserting after subparagraph (G) the following:*

*''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'';*

*(2) in paragraph (5), by striking ''and'' at the end;*

*(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and*

*(4) by inserting after paragraph (6) the following:*

*''(7) in each of such small business cases—*

*''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—*

*''(i) begin to investigate the debtor's viability;*

*''(ii) inquire about the debtor's business plan;*

*''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;*

*''(iv) attempt to develop an agreed scheduling order; and*

*''(v) inform the debtor of other obligations;*

*''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and*

*''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and*

*''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.*

***SEC. 440. SCHEDULING CONFERENCES.***

*Section 105(d) of title 11, United States Code, is amended—*

*(1) in the matter preceding paragraph (1), by striking*

*'', may'';*

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

*''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and*

*(3) in paragraph (2), by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,''.*

***SEC. 441. SERIAL FILER PROVISIONS.***

*Section 362 of title 11, United States Code, is amended—*

*(1) in subsection (j), as redesignated by section 305(1) of this Act—*

*(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and*

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

*''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) against such entity shall be limited to actual damages.''; and*

*(2) by inserting after subsection (j) the following:*

*''(k)(1) Except as provided in paragraph (2), the filing of a petition under chapter 11 operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—*

*''(A) is a debtor in a small business case pending at the time the petition is filed;*

*''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;*

*''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or*

*''(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).*

*''(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—*

*''(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and*

*''(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.*

***SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.***

*(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:*

*''(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.*

*''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—*

*''(A) a plan with a reasonable possibility of being confirmed will be filed within a reasonable period of time; and*

*''(B) if the grounds include an act or omission of the debtor—*

*''(i) for which there exists a reasonable justification for the act or omission; and*

*''(ii) which will be cured within a reasonable period of time fixed by the court.*

*''(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.*

*''(4) For purposes of this subsection, cause includes—*

*''(A) substantial or continuing loss to or diminution of the estate;*

*''(B) gross mismanagement of the estate;*

*''(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;*

*''(D) unauthorized use of cash collateral harmful to 1 or more creditors;*

*''(E) failure to comply with an order of the court;*

*''(F) repeated failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;*

*''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under Rule 2004 of the Federal Rules of Bankruptcy Procedure;*

*''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;*

*''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;*

*''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;*

*''(K) failure to pay any fees or charges required under chapter 123 of title 28;*

*''(L) revocation of an order of confirmation under section 1144;*

*''(M) inability to effectuate substantial consummation of a confirmed plan;*

*''(N) material default by the debtor with respect to a confirmed plan;*

*''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and*

*''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.*

*''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific*

*period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.*

*(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—*

*(1) in paragraph (1), by striking ''or'' at the end;*

*(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and*

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

*''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.''.*

**SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.**

*Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General of the United States, 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, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and*

*(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and*

*(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.*

**SEC. 444. PAYMENT OF INTEREST.**

*Section 362(d)(3) of title 11, United States Code, is amended—*

*(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and*

*(2) by striking subparagraph (B) and inserting the following:*

*''(B) the debtor has commenced monthly payments that—*

*''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and*

*''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.*

**SEC. 445. TECHNICAL CORRECTION.**

*Section 365(b)(2)(D) of title 11, United States Code, is amended by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision''.*

## TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

**SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.**

*(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting '', notwithstanding section 301(b)'' before the period at the end.*

*(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—*

*(1) by inserting ''(a)'' before ''A voluntary'';*

*(2) by striking the last sentence; and*

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

*''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.*

**SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.**

*Section 901(a) of title 11, United States Code, is amended—*

*(1) by inserting ''555, 556,'' after ''553,''; and*

*(2) by inserting ''559, 560,'' after ''557,''.*

## TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

**SEC. 601. AUDIT PROCEDURES.**

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

*(1) in subsection (a), by striking paragraph (6) and inserting the following:*

*''(6) make such reports as the Attorney General directs, including the results of audits performed under 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, veracity, 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 250 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 if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and*

*''(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, 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 may 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 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.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting ''or an auditor appointed under section 586 of title 28'' after ''serving in the case'' each place that term 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 at the end and inserting ''; or''; and*

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

*''(4) the debtor has failed to explain satisfactorily—*

*''(A) a material misstatement in an audit 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 any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).''.*

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

**SEC. 602. IMPROVED BANKRUPTCY STATISTICS.**

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

***''§ 159. Bankruptcy statistics***

*''(a) The clerk of each district court 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 and filed by those debtors;*

*''(B) the total current 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 the cases under each of subclauses (I) and (II), 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 during the 6-year period preceding the date of filing;*

*''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and*

''(H) the number of cases in which sanctions under Rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such rule.''.

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

''159. Bankruptcy statistics.''.

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

**SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.**

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

**''§ 589b. Bankruptcy data**

''(a) Within a reasonable period of time after the effective date of this section, the Attorney General of the United States shall issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum practicable access of the public, by—

''(1) physical inspection at 1 or more central filing locations; and

''(2) electronic access through the Internet or other appropriate media.

''(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

''(A) in the best interests of debtors and creditors, and in the public interest; and

''(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

''(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

''(A) information about the length of time the case was pending;

''(B) assets abandoned;

''(C) assets exempted;

''(D) receipts and disbursements of the estate;

''(E) expenses of administration;

''(F) claims asserted;

''(G) claims allowed; and

''(H) distributions to claimants and claims discharged without payment.

''(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

''(A) the date of confirmation of the plan;

''(B) each modification to the plan; and

''(C) defaults by the debtor in performance under the plan.

''(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

''(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

''(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(B) the length of time the case has been pending;

''(C) the number of full-time employees—

''(i) as of the date of the order for relief; and

''(ii) at the end of each reporting period since the case was filed;

''(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(E) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(F) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those that would not have been so incurred); and

''(G) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

''(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.''.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

**SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.**

It is the sense of Congress that—

(1) it should be the national policy of the United States that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

## TITLE VII—BANKRUPTCY TAX PROVISIONS

**SEC. 701. TREATMENT OF CERTAIN LIENS.**

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

**SEC. 702. TREATMENT OF FUEL TAX CLAIMS.**

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.''.

**SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.**

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(2)(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.''.

**SEC. 704. RATE OF INTEREST ON TAX CLAIMS.**

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

**''§ 511. Rate of interest on tax claims**

''(a) If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate shall be determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest

*shall be determined as of the calendar month in which the plan is confirmed.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:*

*''511. Rate of interest on tax claims.''.*

**SEC. 705. PRIORITY OF TAX CLAIMS.**

*Section 507(a)(8) of title 11, United States Code, is amended—*

*(1) in subparagraph (A)—*

*(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of filing of the petition'' after ''gross receipts'';*

*(B) in clause (i)—*

*(i) by striking ''for a taxable year ending on or before the date of filing of the petition''; and*

*(ii) by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days''; and*

*(C) by striking clause (ii) and inserting the following:*

*''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—*

*''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and*

*''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days.''; and*

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

*''(H) An otherwise applicable time period specified in this paragraph shall be suspended for—*

*''(i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor; plus*

*''(ii) 90 days.''.*

**SEC. 706. PRIORITY PROPERTY TAXES INCURRED.**

*Section 507(a)(9)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.*

**SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.**

*Section 1328(a)(2) of title 11, United States Code, as amended by sections 105, 213, and 314 of this Act, is amended—*

*(1) by inserting ''(1)(B), (1)(C),'' after ''paragraph''; and*

*(2) by inserting ''and in section 507(a)(8)(C)'' after ''section 523(a)''.*

**SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.**

*Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:*

*''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—*

*''(A) made a fraudulent return; or*

*''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.*

**SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.**

*Section 362(a)(8) of title 11, United States Code, is amended by inserting '', with respect to a tax liability for a taxable period ending before the order for relief under this title'' before the semicolon at the end.*

**SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.**

*Section 1129(a)(9) of title 11, United States Code, is amended—*

*(1) in subparagraph (B), by striking ''and'' at the end;*

*(2) in subparagraph (C), by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—*

*''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;*

*''(ii) with interest thereon calculated at the rate provided in section 6621(a)(2) of the Internal Revenue Code of 1986;*

*''(iii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and*

*''(iv) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and*

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

*''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.*

**SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.**

*Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;''.*

**SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.**

*(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—*

*(1) by inserting ''(a)'' before ''Any''; and*

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

*''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—*

*''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or*

*''(2) payment of the tax is excused under a specific provision of title 11.*

*''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—*

*''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or*

*''(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.*

*(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.*

*(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—*

*(1) in subparagraph (B), by striking ''and'' at the end;*

*(2) in subparagraph (C), by adding ''and'' at the end; and*

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

*''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.*

*(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—*

*(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and*

*(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.*

**SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.**

*Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—*

*''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or*

*''(B) the date on which the trustee commences final distribution under this section;''.*

**SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.**

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

*(1) in paragraph (1)(B)—*

*(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';*

*(B) in clause (i)—*

*(i) by inserting ''or given'' after ''filed''; and*

*(ii) by striking ''or'' at the end; and*

*(C) in clause (ii)—*

*(i) by inserting ''or given'' after ''filed''; and*

*(ii) by inserting '', report, or notice'' after ''return''; and*

*(2) by adding at the end the following flush sentences:*

*''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.*

**SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.**

*The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.*

**SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.**

*(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 213 of this Act, is amended—*

*(1) in paragraph (6), by striking ''and'' at the end;*

*(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and*

*(3) by inserting after paragraph (7) the following:*

*''(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.*

*(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—*

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

***''§ 1308. Filing of prepetition tax returns***

*''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.*

*''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any*

*unfiled returns, but such additional period of time shall not extend beyond—*

*''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or*

*''(B) for any return that is not past due as of the date of the filing of the petition, the later of—*

*''(i) the date that is 120 days after the date of that meeting; or*

*''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.*

*''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—*

*''(A) a period of not more than 30 days for returns described in paragraph (1); and*

*''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).*

*''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.*

*(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:*

*''1308. Filing of prepetition tax returns.''.*

*(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—*

*(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and*

*(2) by inserting after subsection (d), the following:*

*''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.*

*(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.*

*(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—*

*(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and*

*(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.*

***SEC. 717. STANDARDS FOR TAX DISCLOSURE.***

*Section 1125(a)(1) of title 11, United States Code, is amended—*

*(1) by inserting ''including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,'' after ''records''; and*

*(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.*

***SEC. 718. SETOFF OF TAX REFUNDS.***

*Section 362(b) of title 11, United States Code, as amended by section 402 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 ''; or''; and*

*(3) by inserting after paragraph (26) the following:*

*''(27) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a).''.*

***SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.***

*(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:*

***''SEC. 346. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.***

*''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.*

*''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.*

*''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).*

*''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.*

*''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.*

*''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.*

*''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.*

*''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.*

*''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).*

*''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.*

*''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—*

*''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and*

*''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.*

*''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.*

*''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the*

*full amount of income from the discharge of indebtedness has not been applied.*

*''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.*

*''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 728 of title 11, United States Code, is repealed.*

*(2) Section 1146 of title 11, United States Code, is amended by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.*

*(3) Section 1231 of title 11, United States Code, is amended by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.*

***SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.***

*Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:*

*''(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.*

*''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.*

***TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES***

***SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.***

*(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:*

***''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES***

*''Sec.*
*''1501. Purpose and scope of application.*
*''SUBCHAPTER I—GENERAL PROVISIONS*
*''1502. Definitions.*
*''1503. International obligations of the United States.*
*''1504. Commencement of ancillary case.*
*''1505. Authorization to act in a foreign country.*
*''1506. Public policy exception.*
*''1507. Additional assistance.*
*''1508. Interpretation.*
*''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT*
*''1509. Right of direct access.*
*''1510. Limited jurisdiction.*
*''1511. Commencement of case under section 301 or 303.*
*''1512. Participation of a foreign representative in a case under this title.*
*''1513. Access of foreign creditors to a case under this title.*
*''1514. Notification to foreign creditors concerning a case under this title.*
*''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF*
*''1515. Application for recognition of a foreign proceeding.*
*''1516. Presumptions concerning recognition.*
*''1517. Order recognizing a foreign proceeding.*
*''1518. Subsequent information.*
*''1519. Relief that may be granted upon petition for recognition of a foreign proceeding.*
*''1520. Effects of recognition of a foreign main proceeding.*
*''1521. Relief that may be granted upon recognition of a foreign proceeding.*
*''1522. Protection of creditors and other interested persons.*
*''1523. Actions to avoid acts detrimental to creditors.*
*''1524. Intervention by a foreign representative.*
*''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES*
*''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.*
*''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.*
*''1527. Forms of cooperation.*
*''SUBCHAPTER V—CONCURRENT PROCEEDINGS*
*''1528. Commencement of a case under this title after recognition of a foreign main proceeding.*
*''1529. Coordination of a case under this title and a foreign proceeding.*
*''1530. Coordination of more than 1 foreign proceeding.*
*''1531. Presumption of insolvency based on recognition of a foreign main proceeding.*
*''1532. Rule of payment in concurrent proceedings.*

***''§ 1501. Purpose and scope of application***

*''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—*

*''(1) cooperation between—*

*''(A) 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);*

*''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or*

*''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970 (84 Stat. 1636 et seq.), a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.*

*''SUBCHAPTER I—GENERAL PROVISIONS*

***''§ 1502. Definitions***

*''For the purposes of this chapter, the term—*

*''(1) 'debtor' means an entity that is the subject of a foreign proceeding;*

*''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;*

*''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;*

*''(4) 'foreign main proceeding' means a foreign proceeding 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 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 under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.*

***''§ 1503. International obligations of the United States***

*''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.*

***''§ 1504. Commencement of ancillary case***

*''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.*

***''§ 1505. Authorization to act in a foreign country***

*''A trustee or another entity, including an examiner, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.*

***''§ 1506. Public policy exception***

*''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.*

***''§ 1507. Additional assistance***

*''(a) Subject to the specific limitations under other provisions of this chapter, the court, upon recognition of a foreign proceeding, may provide additional assistance to a foreign representative under this title or under other laws of the United States.*

*''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—*

*''(1) just treatment of all holders of claims against or interests in the debtor's property;*

*''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;*

*''(3) prevention of preferential or fraudulent dispositions of property of the debtor;*

*''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and*

*''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.*

***''§ 1508. Interpretation***

*''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.*

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

**''§ 1509. Right of direct access**

''(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, 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 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Subject to section 1510, a foreign representative is subject to laws of general application.

''(d) 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 1515 has been sought and the status of any such petition.

''(e) 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.

**''§ 1510. Limited jurisdiction**

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

**''§ 1511. Commencement of case under section 301 or 303**

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a 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.

**''§ 1512. 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.

**''§ 1513. Access of foreign creditors to a case under this title**

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify 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.

**''§ 1514. Notification to foreign creditors concerning a case under this title**

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No 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

**''§ 1515. 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.

**''§ 1516. Presumptions concerning recognition**

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

**''§ 1517. Order recognizing a foreign proceeding**

''(a) Subject to section 1506, after notice and a hearing 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 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(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 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding 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.

**''§ 1518. Subsequent information**

''After the petition for recognition of the foreign proceeding is filed, the foreign representative 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.

**''§ 1519. 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, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation, or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is 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.

**''§ 1520. Effects of recognition of a foreign main proceeding**

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) 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; and*

*''(3) 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.*

***''§ 1521. Relief that may be granted upon recognition of a foreign proceeding***

*''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—*

*''(1) staying the commencement or continuation of 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 1520(a);*

*''(2) staying execution against the debtor's assets to the extent the execution has not been stayed under section 1520(a);*

*''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 1520(a);*

*''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;*

*''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;*

*''(6) extending relief granted under section 1519(a); and*

*''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).*

*''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, 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 law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.*

*''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.*

*''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).*

***''§ 1522. Protection of creditors and other interested persons***

*''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.*

*''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(2), to conditions that the court considers to be appropriate, including the giving of security or the filing of a bond.*

*''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate the relief referred to in subsection (b).*

*''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.*

***''§ 1523. Actions to avoid acts detrimental to creditors***

*''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 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.*

***''§ 1524. Intervention by a foreign representative***

*''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.*

*''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES*

***''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives***

*''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with 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.*

***''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives***

*''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.*

*''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.*

***''§ 1527. Forms of cooperation***

*''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—*

*''(1) appointment of a person or body, including an examiner, to act at the direction of the court;*

*''(2) communication of information by any means considered appropriate by the court;*

*''(3) coordination of the administration and supervision of the debtor's assets and affairs;*

*''(4) approval or implementation of agreements concerning the coordination of proceedings; and*

*''(5) coordination of concurrent proceedings regarding the same debtor.*

*''SUBCHAPTER V—CONCURRENT PROCEEDINGS*

***''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding***

*''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a), and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.*

***''§ 1529. Coordination of a case under this title and a foreign proceeding***

*''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 1525, 1526, and 1527, 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 sections 1519 or 1521 must 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 1520 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 sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and*

*''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.*

*''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the 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 1528 and 1529, the court may grant any of the relief authorized under section 305.*

***''§ 1530. Coordination of more than 1 foreign proceeding***

*''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:*

*''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.*

*''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.*

*''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.*

**"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding**

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

**"§ 1532. Rule of payment in concurrent proceedings**

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

**"15. Ancillary and Other Cross-Border Cases ..... 1501".**

**SEC. 802. 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 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1513 and 1514 apply in all cases under this title; and

''(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.''.

(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 country, 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 15 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 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''15,'' after ''chapter''.

**SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.**

Section 304 of title 11, United States Code, is amended to read as follows:

**"§ 304. Cases ancillary to foreign proceedings**

''(a) For purposes of this section—

''(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

''(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

''(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

''(4) 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

''(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.''.

## TITLE IX—FINANCIAL CONTRACT PROVISIONS

**SEC. 901. 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;''; and

(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, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;'';

(B) by striking paragraph (47) and inserting the following:

''(47) 'repurchase agreement' and 'reverse repurchase agreement'—

''(A) mean—

''(i) an agreement, including related terms, which 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); or

''(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), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(C) in paragraph (48) by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission'' after ''1934''; and

(D) 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;

''(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 mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including 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, 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, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and*

*''(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and*

*(3) in section 761(4)—*

*(A) by striking ''or'' at the end of subparagraph (D); and*

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

*''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;*

*''(G) 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, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition.''.*

*(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, as amended by section 802(b) of this Act, is amended—*

*(1) by striking paragraph (22) and inserting the following:*

*''(22) 'financial institution' means—*

*''(A)(i) 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*

*''(ii) 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; or*

*''(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;'';*

*(2) by inserting after paragraph (22) the following:*

*''(22A) 'financial participant' means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;''; and*

*(3) by striking paragraph (26) and inserting the following:*

*''(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants 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, as amended by subsection (b) of this section, 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 the paragraphs (1) through (5) of section 561(a);*

*''(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 718 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 (26), by striking ''or'' at the end;*

*(E) in paragraph (27), by striking the period at the end and inserting ''; or''; and*

*(F) by inserting after paragraph (27) the following:*

*''(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent 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 441(2) of this Act, is amended by adding at the end the following:*

*''(l) LIMITATION.—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 following:*

***''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';***

*(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of 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:*

***''§ 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) If a debtor is a commodity broker subject to subchapter IV of chapter 7—*

*''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a), except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter IV; and*

*''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements referred to in subsection (a).*

*''(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) 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.''.*

*(m) 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.''.*

*(n) 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, financial 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.''.*

*(o) 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)(28), 555, 556, 559, or 560)'' before the period; and*

*(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(28), 555, 556, 559, 560,''.*

*(p) 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''.*

*(q) CONFORMING AMENDMENTS.—Title 11, 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. 902. DAMAGE MEASURE.**

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561 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, commodity contract (as defined in section 761) repurchase agreement, or master netting agreement under section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date of such liquidation, termination, or acceleration.''; and

(2) in the table of sections for chapter 5 by inserting after the item relating to section 561 the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 561 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. 903. ASSET-BACKED SECURITIZATIONS.**

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''or'' at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

''(5) 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 that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or''; and

(4) by adding at the end the following:

''(e) For purposes of this section, the following definitions shall apply:

''(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 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), irrespective, without limitation of—

''(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. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—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 with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

## TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

**SEC. 1001. REENACTMENT OF CHAPTER 12.**

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 1999.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

**SEC. 1002. DEBT LIMIT INCREASE.**

Section 104(b) of title 11, United States Code, 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. 1003. 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. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.**

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim; and''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

**SEC. 1005. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.**

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.''.

(b) MODIFICATION.—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. 1006. FAMILY FISHERMEN.**

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

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products; and

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);'';

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquiculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) by inserting after paragraph (19A) the following:

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1201, by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(5) by adding at the end the following:

**''§ 1232. Additional provisions relating to family fishermen**

''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46, United States Code, without regard to whether that lien is recorded under section 31343 of title 46, United States Code; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46, United States Code.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

**''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.**

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

## TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

**SEC. 1101. DEFINITIONS.**

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 1003(a) of this Act, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

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

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) PATIENT DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (a) of this section, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any person who obtains or receives services from a health care business;''.

(c) PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (b) of this section, is amended by inserting after paragraph (40A) the following:

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(d) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

**SEC. 1102. DISPOSAL OF PATIENT RECORDS.**

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

**''§ 351. Disposal of patient records**

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall—

''(A) publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 90 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the 90-day period described in subparagraph (A), attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient and appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If after providing the notification under paragraph (1), patient records are not claimed during the 90-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 90-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency.

''(3) If, following the period in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed during the 90-day period described in paragraph (1)(A) or in any case in which a notice is mailed under paragraph (1)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

''351. Disposal of patient records.''.

**SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.**

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is

*defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—*

*''(A) in disposing of patient records in accordance with section 351; or*

*''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.''.*

***SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.***

*(a) IN GENERAL.—*

*(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:*

***''§ 332. Appointment of ombudsman***

*''(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman with appropriate expertise in monitoring the quality of patient care to represent the interests of the patients of the health care business. The court may appoint as an ombudsman a person who is serving as a State Long-Term Care Ombudsman appointed under title III or VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq. and 3058 et seq.).*

*''(b) An ombudsman appointed under subsection (a) shall—*

*''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including interviewing patients and physicians;*

*''(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and*

*''(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.*

*''(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.''.*

*(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:*

*''332. Appointment of ombudsman.''.*

*(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—*

*(1) in the matter proceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and*

*(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.*

***SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.***

*(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—*

*(1) in paragraph (9), by striking ''and'' at the end;*

*(2) in paragraph (10), by striking the period and inserting ''; and''; and*

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

*''(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—*

*''(A) is in the vicinity of the health care business that is closing;*

*''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and*

*''(C) maintains a reasonable quality of care.''.*

*(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ''704(2), 704(5), 704(7), 704(8), and 704(9)'' and inserting ''704(a) (2), (5), (7), (8), (9), and (11)''.*

***SEC. 1106. ESTABLISHMENT OF POLICY AND PROTOCOLS RELATING TO BANKRUPTCIES OF HEALTH CARE BUSINESSES.***

*Not later than 30 days after the date of enactment of this Act, the Attorney General of the United States, in consultation with the Secretary of Health and Human Services and the National Association of Attorneys General, shall establish a policy and protocols for coordinating a response to bankruptcies of health care businesses (as that term is defined in section 101 of title 11, United States Code), including assessing the appropriate time frame for disposal of patient records under section 1102 of this Act.*

***SEC. 1107. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.***

*Section 362(b) of title 11, United States Code, as amended by section 901(d) of this Act, is amended—*

*(1) in paragraph (27), by striking ''or'' at the end;*

*(2) in paragraph (28), by striking the period at the end and inserting ''; or''; and*

*(3) by inserting after paragraph (28) the following:*

*''(29) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).''.*

## *TITLE XII—AMENDMENTS TO FAIR LABOR STANDARDS ACT OF 1938*

***SEC. 1201. MINIMUM WAGE.***

*Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:*

*''(1) except as otherwise provided in this section, not less than—*

*''(A) $5.15 an hour beginning September 1, 1997,*

*''(B) $5.50 an hour during the year beginning March 1, 2000,*

*''(C) $5.85 an hour during the year beginning March 1, 2001, and*

*''(D) $6.15 an hour during the year beginning March 1, 2002.''.*

***SEC. 1202. REGULAR RATE FOR OVERTIME PURPOSES.***

*Section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)) is amended—*

*(1) by inserting before the semicolon at the end of paragraph (3) the following: ''; or (d) the payments are made to reward an employee or group of employees for meeting or exceeding the productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan''; and*

*(2) by inserting after and below paragraph (7) the following:*

*''A plan described in paragraph (3)(d) shall be in writing and made available to employees, provide that the amount of the payments to be made under the plan be based upon a formula that is stated in the plan, and be established and maintained in good faith for the purpose of distributing to employees additional remuneration over and above the wages and salaries that are not dependent upon the existence of such plan or payments made pursuant to such plan.''.*

## *TITLE XIII—TAX RELIEF*

***SEC. 1300. AMENDMENT OF 1986 CODE.***

*Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

### *Subtitle A—Small Business Tax Relief*

***SEC. 1301. INCREASE IN EXPENSING LIMITATION TO $30,000.***

*(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to limitations) is amended to read as follows:*

*''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $30,000.''*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.*

***SEC. 1302. REPEAL OF TEMPORARY UNEMPLOYMENT TAX.***

*Section 3301 (relating to rate of unemployment tax) is amended—*

*(1) by striking ''2007'' in paragraph (1) and inserting ''2000''; and*

*(2) by striking ''2008'' in paragraph (2) and inserting ''2001''.*

***SEC. 1303. FULL DEDUCTION OF HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.***

*(a) IN GENERAL.—Section 162(l)(1) (relating to allowance of deduction) is amended to read as follows:*

*''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.*

***SEC. 1304. PERMANENT EXTENSION OF WORK OPPORTUNITY TAX CREDIT.***

*(a) IN GENERAL.—Section 51(c) (defining wages) is amended by striking paragraph (4).*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1999.*

***SEC. 1305. SMALL BUSINESSES ALLOWED INCREASED DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES.***

*(a) IN GENERAL.—Subsection (n) of section 274 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following:*

*''(4) SPECIAL RULE FOR SMALL BUSINESSES.—*

*''(A) IN GENERAL.—In the case of any taxpayer which is a small business, paragraph (1) shall be applied by substituting 'the applicable percentage' for '50 percent'. For purposes of the preceding sentence, the term 'applicable percentage' means 55 percent in the case of taxable years beginning in 2001, increased (but not above 80 percent) by 5 percentage points for each succeeding calendar year after 2001 with respect to taxable years beginning in each such calendar year.*

*''(B) SMALL BUSINESS.—For purposes of this paragraph, the term 'small business' means, with respect to expenses paid or incurred during any taxable year—*

*''(i) any C corporation which meets the requirements of section 55(e)(1) for such year, and*

*''(ii) any S corporation, partnership, or sole proprietorship which would meet such requirements if it were a C corporation.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.*

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

***SEC. 1311. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.***

*(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:*

***"SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.***

*''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.*

*''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:*

| *''For taxable years beginning in calendar year—* | *The applicable percentage is—* |
|---|---|
| *2002, 2003, and 2004* | *25* |
| *2005* | *35* |
| *2006* | *65* |
| *2007 and thereafter* | *100* |

*''(c) LIMITATION BASED ON OTHER COVERAGE.—*

*''(1) COVERAGE UNDER CERTAIN SUBSIDIZED EMPLOYER PLANS.—*

*''(A) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.*

*''(B) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.*

*''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.*

*''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—*

*''(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and*

*''(ii) plans which do not include such coverage and are not such contracts.*

*''(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—*

*''(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—*

*''(i) title XVIII, XIX, or XXI of the Social Security Act,*

*''(ii) chapter 55 of title 10, United States Code,*

*''(iii) chapter 17 of title 38, United States Code,*

*''(iv) chapter 89 of title 5, United States Code, or*

*''(v) the Indian Health Care Improvement Act.*

*''(B) EXCEPTIONS.—*

*''(i) QUALIFIED LONG-TERM CARE.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.*

*''(ii) CONTINUATION COVERAGE OF FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.*

*''(d) LONG-TERM CARE DEDUCTION LIMITED TO QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).*

*''(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF ANCILLARY COVERAGE PREMIUMS.—Any amount paid as a premium for insurance which provides for—*

*''(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or*

*''(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized,*

*shall not be taken into account under subsection (a).*

*''(f) SPECIAL RULES.—*

*''(1) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.*

*''(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.*

*''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.*

*(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (17) the following new item:*

*''(18) HEALTH AND LONG-TERM CARE INSURANCE COSTS.—The deduction allowed by section 222.''.*

*(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:*

*''Sec. 222. Health and long-term care insurance costs.*

*''Sec. 223. Cross reference.''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.*

***Subtitle C—Pension Tax Relief***

***PART I—EXPANDING COVERAGE***

***SEC. 1321. INCREASE IN BENEFIT AND CONTRIBUTION LIMITS.***

*(a) DEFINED BENEFIT PLANS.—*

*(1) DOLLAR LIMIT.—*

*(A) Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking ''$90,000'' and inserting ''$160,000''.*

*(B) Subparagraphs (C) and (D) of section 415(b)(2) are each amended by striking ''$90,000'' each place it appears in the headings and the text and inserting ''$160,000''.*

*(C) Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking ''the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' '' and inserting ''one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$160,000' ''.*

*(2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 62''.*

*(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 65''.*

*(4) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—*

*(A) by striking ''$90,000'' in paragraph (1)(A) and inserting ''$160,000'', and*

*(B) in paragraph (3)(A)—*

*(i) by striking ''$90,000'' in the heading and inserting ''$160,000'', and*

*(ii) by striking ''October 1, 1986'' and inserting ''July 1, 2000''.*

*(5) CONFORMING AMENDMENT.—Section 415(b)(2) is amended by striking subparagraph (F).*

*(b) DEFINED CONTRIBUTION PLANS.—*

*(1) DOLLAR LIMIT.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking ''$30,000'' and inserting ''$40,000''.*

*(2) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—*

*(A) by striking ''$30,000'' in paragraph (1)(C) and inserting ''$40,000'', and*

*(B) in paragraph (3)(D)—*

*(i) by striking ''$30,000'' in the heading and inserting ''$40,000'', and*

*(ii) by striking ''October 1, 1993'' and inserting ''July 1, 2000''.*

*(c) QUALIFIED TRUSTS.—*

*(1) COMPENSATION LIMIT.—Sections 401(a)(17), 404(l), 408(k), and 505(b)(7) are each amended by striking ''$150,000'' each place it appears and inserting ''$200,000''.*

*(2) BASE PERIOD AND ROUNDING OF COST-OF-LIVING ADJUSTMENT.—Subparagraph (B) of section 401(a)(17) is amended—*

*(A) by striking ''October 1, 1993'' and inserting ''July 1, 2000'', and*

*(B) by striking ''$10,000'' both places it appears and inserting ''$5,000''.*

*(d) ELECTIVE DEFERRALS.—*

*(1) IN GENERAL.—Paragraph (1) of section 402(g) (relating to limitation on exclusion for elective deferrals) is amended to read as follows:*

*''(1) IN GENERAL.—*

*''(A) LIMITATION.—Notwithstanding subsections (e)(3) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds the applicable dollar amount.*

*''(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A), the applicable dollar amount shall be the amount determined in accordance with the following table:*

| *''For taxable years beginning in calendar year:* | *The applicable dollar amount:* |
|---|---|
| *2001* | *11,000* |
| *2002* | *12,000* |
| *2003* | *13,000* |
| *2004* | *14,000* |
| *2005 or thereafter* | *$15,000.''* |

*(2) COST-OF-LIVING ADJUSTMENT.—Paragraph (5) of section 402(g) is amended to read as follows:*

*''(5) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the $15,000 amount under paragraph (1)(B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.*

*(3) CONFORMING AMENDMENTS.—*

*(A) Section 402(g) (relating to limitation on exclusion for elective deferrals), as amended by paragraphs (1) and (2), is further amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.*

*(B) Paragraph (2) of section 457(c) is amended by striking ''402(g)(8)(A)(iii)'' and inserting ''402(g)(7)(A)(iii)''.*

*(C) Clause (iii) of section 501(c)(18)(D) is amended by striking ''(other than paragraph (4) thereof)''.*

*(e) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—*

*(1) IN GENERAL.—Section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended—*

*(A) in subsections (b)(2)(A) and (c)(1) by striking ''$7,500'' each place it appears and inserting ''the applicable dollar amount'', and*

*(B) in subsection (b)(3)(A) by striking ''$15,000'' and inserting ''twice the dollar amount in effect under subsection (b)(2)(A)''.*

*(2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—Paragraph (15) of section 457(e) is amended to read as follows:*

*''(15) APPLICABLE DOLLAR AMOUNT.—*

*''(A) IN GENERAL.—The applicable dollar amount shall be the amount determined in accordance with the following table:*

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2001 | $11,000 |
| 2002 | $12,000 |
| 2003 | $13,000 |
| 2004 | $14,000 |
| 2005 or thereafter | $15,000. |

*''(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the $15,000 amount specified in the table in subparagraph (A) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.*

*(f) SIMPLE RETIREMENT ACCOUNTS.—*

*(1) LIMITATION.—Clause (ii) of section 408(p)(2)(A) (relating to general rule for qualified salary reduction arrangement) is amended by striking ''$6,000'' and inserting ''the applicable dollar amount''.*

*(2) APPLICABLE DOLLAR AMOUNT.—Subparagraph (E) of 408(p)(2) is amended to read as follows:*

*''(E) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—*

*''(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable dollar amount shall be the amount determined in accordance with the following table:*

| ''For taxable years beginning in calendar year: | The applicable dollar amount: |
|---|---|
| 2001 | $7,000 |
| 2002 | $8,000 |
| 2003 | $9,000 |
| 2004 or thereafter | $10,000. |

*''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of a year beginning after December 31, 2004, the Secretary shall adjust the $10,000 amount under clause (i) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter beginning July 1, 2003, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.''.*

*(3) CONFORMING AMENDMENTS.—*

*(A) Clause (I) of section 401(k)(11)(B)(i) is amended by striking ''$6,000'' and inserting ''the amount in effect under section 408(p)(2)(A)(ii)''.*

*(B) Section 401(k)(11) is amended by striking subparagraph (E).*

*(g) ROUNDING RULE RELATING TO DEFINED BENEFIT PLANS AND DEFINED CONTRIBUTION PLANS.—Paragraph (4) of section 415(d) is amended to read as follows:*

*''(4) ROUNDING.—*

*''(A) $160,000 AMOUNT.—Any increase under subparagraph (A) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.*

*''(B) $40,000 AMOUNT.—Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.''.*

*(h) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1322. PLAN LOANS FOR SUBCHAPTER S OWNERS, PARTNERS, AND SOLE PROPRIETORS.**

*(a) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 4975(f)(6) (relating to exemptions not to apply to certain transactions) is amended by adding at the end the following new clause:*

*''(iii) LOAN EXCEPTION.—For purposes of subparagraph (A)(i), the term 'owner-employee' shall only include a person described in subclause (II) or (III) of clause (i).''.*

*(b) AMENDMENT TO ERISA.—Section 408(d)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(d)(2)) is amended by adding at the end the following new subparagraph:*

*''(C) For purposes of paragraph (1)(A), the term 'owner-employee' shall only include a person described in clause (ii) or (iii) of subparagraph (A).''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after December 31, 2000.*

**SEC. 1323. MODIFICATION OF TOP-HEAVY RULES.**

*(a) SIMPLIFICATION OF DEFINITION OF KEY EMPLOYEE.—*

*(1) IN GENERAL.—Section 416(i)(1)(A) (defining key employee) is amended—*

*(A) by striking ''or any of the 4 preceding plan years'' in the matter preceding clause (i),*

*(B) by striking clause (i) and inserting the following:*

*''(i) an officer of the employer having an annual compensation greater than $150,000,'',*

*(C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and*

*(D) by striking the second sentence in the matter following clause (iii), as redesignated by subparagraph (C).*

*(2) CONFORMING AMENDMENT.—Section 416(i)(1)(B)(iii) is amended by striking ''and subparagraph (A)(ii)''.*

*(b) MATCHING CONTRIBUTIONS TAKEN INTO ACCOUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—Section 416(c)(2)(A) (relating to defined contribution plans) is amended by adding at the end the following: ''Employer matching contributions (as defined in section 401(m)(4)(A)) shall be taken into account for purposes of this subparagraph.''.*

*(c) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—*

*(1) IN GENERAL.—Paragraph (3) of section 416(g) is amended to read as follows:*

*''(3) DISTRIBUTIONS DURING LAST YEAR BEFORE DETERMINATION DATE TAKEN INTO ACCOUNT.—*

*''(A) IN GENERAL.—For purposes of determining—*

*''(i) the present value of the cumulative accrued benefit for any employee, or*

*''(ii) the amount of the account of any employee,*

*such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group.*

*''(B) 5-YEAR PERIOD IN CASE OF IN-SERVICE DISTRIBUTION.—In the case of any distribution made for a reason other than separation from service, death, or disability, subparagraph (A) shall be applied by substituting '5-year period' for '1-year period'.''.*

*(2) BENEFITS NOT TAKEN INTO ACCOUNT.—Subparagraph (E) of section 416(g)(4) is amended—*

*(A) by striking ''LAST 5 YEARS'' in the heading and inserting ''LAST YEAR BEFORE DETERMINATION DATE'', and*

*(B) by striking ''5-year period'' and inserting ''1-year period''.*

*(d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph (4) of section 416(g) (relating to other special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:*

*''(H) CASH OR DEFERRED ARRANGEMENTS USING ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—The term 'top-heavy plan' shall not include a plan which consists solely of—*

*''(i) a cash or deferred arrangement which meets the requirements of section 401(k)(12), and*

*''(ii) matching contributions with respect to which the requirements of section 401(m)(11) are met.*

*If, but for this subparagraph, a plan would be treated as a top-heavy plan because it is a member of an aggregation group which is a top-heavy group, contributions under the plan may be taken into account in determining whether any other plan in the group meets the requirements of subsection (c)(2).''.*

*(e) FROZEN PLAN EXEMPT FROM MINIMUM BENEFIT REQUIREMENT.—Subparagraph (C) of section 416(c)(1) (relating to defined benefit plans) is amended—*

*(A) by striking ''clause (ii)'' in clause (i) and inserting ''clause (ii) or (iii)'', and*

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

*''(iii) EXCEPTION FOR FROZEN PLAN.—For purposes of determining an employee's years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of section 410(b)) no employee or former employee.''.*

*(f) ELIMINATION OF FAMILY ATTRIBUTION.—Section 416(i)(1)(B) (defining 5-percent owner) is amended by adding at the end the following new clause:*

*''(iv) FAMILY ATTRIBUTION DISREGARDED.—Solely for purposes of applying this paragraph (and not for purposes of any provision of this title which incorporates by reference the definition of a key employee or 5-percent owner under this paragraph), section 318 shall be applied without regard to subsection (a)(1) thereof in determining whether any person is a 5-percent owner.''.*

*(g) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1324. ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.**

*(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended by adding at the end the following new subsection:*

*''(n) ELECTIVE DEFERRALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective deferrals (as defined in section 402(g)(3)) shall not be subject to any limitation contained in paragraph (3), (7), or (9) of subsection (a), and such elective deferrals shall not be taken into account in applying any such limitation to any other contributions.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1325. REPEAL OF COORDINATION REQUIREMENTS FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.**

*(a) IN GENERAL.—Subsection (c) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations), as amended by section 1321, is amended to read as follows:*

''(c) LIMITATION.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed the amount in effect under subsection (b)(2)(A) (as modified by any adjustment provided under subsection (b)(3)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2000.

**SEC. 1326. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING PENSION PLANS.**

(a) ELIMINATION OF CERTAIN USER FEES.—The Secretary of the Treasury or the Secretary's delegate shall not require payment of user fees under the program established under section 7527 of the Internal Revenue Code of 1986 for requests to the Internal Revenue Service for determination letters with respect to the qualified status of a pension benefit plan maintained solely by one or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

(1) made after the 5th plan year the pension benefit plan is in existence, or

(2) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(b) PENSION BENEFIT PLAN.—For purposes of this section, the term ''pension benefit plan'' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term ''eligible employer'' has the same meaning given such term in section 408(p)(2)(C)(i)(I) of the Internal Revenue Code of 1986. The determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

(d) EFFECTIVE DATE.—The provisions of this section shall apply with respect to requests made after December 31, 2000.

**SEC. 1327. DEDUCTION LIMITS.**

(a) IN GENERAL.—Section 404(a) (relating to general rule) is amended by adding at the end the following:

''(12) DEFINITION OF COMPENSATION.—For purposes of paragraphs (3), (7), (8), and (9), the term 'compensation' shall include amounts treated as participant's compensation under subparagraph (C) or (D) of section 415(c)(3).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 404(a)(3) is amended by striking the last sentence thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.

**SEC. 1328. OPTION TO TREAT ELECTIVE DEFERRALS AS AFTER-TAX CONTRIBUTIONS.**

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to deferred compensation, etc.) is amended by inserting after section 402 the following new section:

**''SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFERRALS AS PLUS CONTRIBUTIONS.**

''(a) GENERAL RULE.—If an applicable retirement plan includes a qualified plus contribution program—

''(1) any designated plus contribution made by an employee pursuant to the program shall be treated as an elective deferral for purposes of this chapter, except that such contribution shall not be excludable from gross income, and

''(2) such plan (and any arrangement which is part of such plan) shall not be treated as failing to meet any requirement of this chapter solely by reason of including such program.

''(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified plus contribution program' means a program under which an employee may elect to make designated plus contributions in lieu of all or a portion of elective deferrals the employee is otherwise eligible to make under the applicable retirement plan.

''(2) SEPARATE ACCOUNTING REQUIRED.—A program shall not be treated as a qualified plus contribution program unless the applicable retirement plan—

''(A) establishes separate accounts ('designated plus accounts') for the designated plus contributions of each employee and any earnings properly allocable to the contributions, and

''(B) maintains separate recordkeeping with respect to each account.

''(c) DEFINITIONS AND RULES RELATING TO DESIGNATED PLUS CONTRIBUTIONS.—For purposes of this section—

''(1) DESIGNATED PLUS CONTRIBUTION.—The term 'designated plus contribution' means any elective deferral which—

''(A) is excludable from gross income of an employee without regard to this section, and

''(B) the employee designates (at such time and in such manner as the Secretary may prescribe) as not being so excludable.

''(2) DESIGNATION LIMITS.—The amount of elective deferrals which an employee may designate under paragraph (1) shall not exceed the excess (if any) of—

''(A) the maximum amount of elective deferrals excludable from gross income of the employee for the taxable year (without regard to this section), over

''(B) the aggregate amount of elective deferrals of the employee for the taxable year which the employee does not designate under paragraph (1).

''(3) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—A rollover contribution of any payment or distribution from a designated plus account which is otherwise allowable under this chapter may be made only if the contribution is to—

''(i) another designated plus account of the individual from whose account the payment or distribution was made, or

''(ii) a Roth IRA of such individual.

''(B) COORDINATION WITH LIMIT.—Any rollover contribution to a designated plus account under subparagraph (A) shall not be taken into account for purposes of paragraph (1).

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) EXCLUSION.—Any qualified distribution from a designated plus account shall not be includible in gross income.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' has the meaning given such term by section 408A(d)(2)(A) (without regard to clause (iv) thereof).

''(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a designated plus account shall not be treated as a qualified distribution if such payment or distribution is made within the 5-taxable-year period beginning with the earlier of—

''(i) the first taxable year for which the individual made a designated plus contribution to any designated plus account established for such individual under the same applicable retirement plan, or

''(ii) if a rollover contribution was made to such designated plus account from a designated plus account previously established for such individual under another applicable retirement plan, the first taxable year for which the individual made a designated plus contribution to such previously established account.

''(C) DISTRIBUTIONS OF EXCESS DEFERRALS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any excess deferral under section 402(g)(2) and any income on the excess deferral.

''(3) AGGREGATION RULES.—Section 72 shall be applied separately with respect to distributions and payments from a designated plus account and other distributions and payments from the plan.

''(e) OTHER DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE RETIREMENT PLAN.—The term 'applicable retirement plan' means—

''(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a), and

''(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means any elective deferral described in subparagraph (A) or (C) of section 402(g)(3).''.

(b) EXCESS DEFERRALS.—Section 402(g) (relating to limitation on exclusion for elective deferrals) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: ''The preceding sentence shall not apply to so much of such excess as does not exceed the designated plus contributions of the individual for the taxable year.'', and

(2) by inserting ''(or would be included but for the last sentence thereof)'' after ''paragraph (1)'' in paragraph (2)(A).

(c) ROLLOVERS.—Subparagraph (B) of section 402(c)(8) is amended by adding at the end the following:

''If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated plus account (as defined in section 402A), an eligible retirement plan with respect to such portion shall include only another designated plus account and a Roth IRA.''.

(d) REPORTING REQUIREMENTS.—

(1) W–2 INFORMATION.—Section 6051(a)(8) is amended by inserting '', including the amount of designated plus contributions (as defined in section 402A)'' before the comma at the end.

(2) INFORMATION.—Section 6047 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DESIGNATED PLUS CONTRIBUTIONS.—The Secretary shall require the plan administrator of each applicable retirement plan (as defined in section 402A) to make such returns and reports regarding designated plus contributions (as so defined) to the Secretary, participants and beneficiaries of the plan, and such other persons as the Secretary may prescribe.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 408A(e) is amended by adding after the first sentence the following new sentence: ''Such term includes a rollover contribution described in section 402A(c)(3)(A).''.

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 402 the following new item:

''Sec. 402A. Optional treatment of elective deferrals as plus contributions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

## PART II—ENHANCING FAIRNESS FOR WOMEN

**SEC. 1331. CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.**

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(v) CATCHUP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.—

''(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

''(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—

''(A) IN GENERAL.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

''(i) the applicable percentage of the applicable dollar amount for such elective deferrals for such year, or

''(ii) the excess (if any) of—

''(I) the participant's compensation for the year, over

''(II) any other elective deferrals of the participant for such year which are made without regard to this subsection.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

| ''For taxable years beginning in: | The applicable percentage is: |
|---|---|
| 2001 | 10 |
| 2002 | 20 |
| 2003 | 30 |
| 2004 | 40 |
| 2005 and thereafter | 50. |

''(3) TREATMENT OF CONTRIBUTIONS.—In the case of any contribution to a plan under paragraph (1)—

''(A) such contribution shall not, with respect to the year in which the contribution is made—

''(i) be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, or

''(ii) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

''(B) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k), 408(p), 408B, 410(b), or 416 by reason of the making of (or the right to make) such contribution.

''(4) ELIGIBLE PARTICIPANT.—For purposes of this subsection, the term 'eligible participant' means, with respect to any plan year, a participant in a plan—

''(A) who has attained the age of 50 before the close of the plan year, and

''(B) with respect to whom no other elective deferrals may (without regard to this subsection) be made to the plan for the plan year by reason of the application of any limitation or other restriction described in paragraph (3) or contained in the terms of the plan.

''(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

''(A) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means, with respect to any year, the amount in effect under section 402(g)(1)(B), 408(p)(2)(E)(i), or 457(e)(15)(A), whichever is applicable to an applicable employer plan, for such year.

''(B) APPLICABLE EMPLOYER PLAN.—The term 'applicable employer plan' means—

''(i) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

''(ii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iii) an eligible deferred compensation plan under section 457 of an eligible employer as defined in section 457(e)(1)(A), and

''(iv) an arrangement meeting the requirements of section 408 (k) or (p).

''(C) ELECTIVE DEFERRAL.—The term 'elective deferral' has the meaning given such term by subsection (u)(2)(C).

''(D) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to an applicable employer plan described in subparagraph (B)(iii) for any year to which section 457(b)(3) applies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions in taxable years beginning after December 31, 2000.

**SEC. 1332. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF EMPLOYEES TO DEFINED CONTRIBUTION PLANS.**

(a) EQUITABLE TREATMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended by striking ''25 percent'' and inserting ''100 percent''.

(2) APPLICATION TO SECTION 403(b).—Section 403(b) is amended—

(A) by striking ''the exclusion allowance for such taxable year'' in paragraph (1) and inserting ''the applicable limit under section 415'',

(B) by striking paragraph (2), and

(C) by inserting ''or any amount received by a former employee after the 5th taxable year following the taxable year in which such employee was terminated'' before the period at the end of the second sentence of paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) Subsection (f) of section 72 is amended by striking ''section 403(b)(2)(D)(iii))'' and inserting ''section 403(b)(2)(D)(iii), as in effect before the enactment of the Taxpayer Refund and Relief Act of 1999)''.

(B) Section 404(a)(10)(B) is amended by striking '', the exclusion allowance under section 403(b)(2),''.

(C) Section 415(a)(2) is amended by striking '', and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)''.

(D) Section 415(c)(3) is amended by adding at the end the following new subparagraph:

''(E) ANNUITY CONTRACTS.—In the case of an annuity contract described in section 403(b), the term 'participant's compensation' means the participant's includible compensation determined under section 403(b)(3).''.

(E) Section 415(c) is amended by striking paragraph (4).

(F) Section 415(c)(7) is amended to read as follows:

''(7) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMIT.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

''(B) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

''(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).''.

(G) Subparagraph (B) of section 402(g)(7) (as redesignated by section 1201) is amended by inserting before the period at the end the following: ''(as in effect before the enactment of the Taxpayer Refund and Relief Act of 1999)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.

(b) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—

(1) IN GENERAL.—Subsection (k) of section 415 is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR SECTIONS 403(b) AND 408.—For purposes of this section, any annuity contract described in section 403(b) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension plan for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to limitation years beginning after December 31, 1999.

(B) EXCLUSION ALLOWANCE.—Effective for limitation years beginning in 2000, in the case of any annuity contract described in section 403(b) of the Internal Revenue Code of 1986, the amount of the contribution disqualified by reason of section 415(g) of such Code shall reduce the exclusion allowance as provided in section 403(b)(2) of such Code.

(3) MODIFICATION OF 403(b) EXCLUSION ALLOWANCE TO CONFORM TO 415 MODIFICATION.—The Secretary of the Treasury shall modify the regulations regarding the exclusion allowance under section 403(b)(2) of the Internal Revenue Code of 1986 to render void the requirement that contributions to a defined benefit pension plan be treated as previously excluded amounts for purposes of the exclusion allowance. For taxable years beginning after December 31, 1999, such regulations shall be applied as if such requirement were void.

(c) DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 457(b)(2) (relating to salary limitation on eligible deferred compensation plans) is amended by striking ''33⅓ percent'' and inserting ''100 percent''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.

**SEC. 1333. FASTER VESTING OF CERTAIN EMPLOYER MATCHING CONTRIBUTIONS.**

(a) AMENDMENTS TO 1986 CODE.—Section 411(a) (relating to minimum vesting standards) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (12), a plan'', and

(2) by adding at the end the following:

''(12) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A)), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(b) AMENDMENTS TO ERISA.—Section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) in paragraph (2), by striking ''A plan'' and inserting ''Except as provided in paragraph (4), a plan'', and

(2) by adding at the end the following:

''(4) FASTER VESTING FOR MATCHING CONTRIBUTIONS.—In the case of matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), paragraph (2) shall be applied—

''(A) by substituting '3 years' for '5 years' in subparagraph (A), and

''(B) by substituting the following table for the table contained in subparagraph (B):

| ''Years of service: | The nonforfeitable percentage is: |
|---|---|
| 2 | 20 |
| 3 | 40 |
| 4 | 60 |
| 5 | 80 |
| 6 | 100.''. |

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2000.

*(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—*

*(A) the later of—*

*(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment), or*

*(ii) January 1, 2001, or*

*(B) January 1, 2005.*

*(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.*

***SEC. 1334. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.***

*(a) SIMPLIFICATION AND FINALIZATION OF MINIMUM DISTRIBUTION REQUIREMENTS.—*

*(1) IN GENERAL.—The Secretary of the Treasury shall—*

*(A) simplify and finalize the regulations relating to minimum distribution requirements under sections 401(a)(9), 408(a)(6) and (b)(3), 403(b)(10), and 457(d)(2) of the Internal Revenue Code of 1986, and*

*(B) modify such regulations to—*

*(i) reflect current life expectancy, and*

*(ii) revise the required distribution methods so that, under reasonable assumptions, the amount of the required minimum distribution does not decrease over a participant's life expectancy.*

*(2) FRESH START.—Notwithstanding subparagraph (D) of section 401(a)(9) of such Code, during the first year that regulations are in effect under this subsection, required distributions for future years may be redetermined to reflect changes under such regulations. Such redetermination shall include the opportunity to choose a new designated beneficiary and to elect a new method of calculating life expectancy.*

*(3) EFFECTIVE DATE FOR REGULATIONS.—Regulations referred to in paragraph (1) shall be effective for years beginning after December 31, 2000, and shall apply in such years without regard to whether an individual had previously begun receiving minimum distributions.*

*(b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD BEGUN BEFORE DEATH OCCURS.—*

*(1) IN GENERAL.—Subparagraph (B) of section 401(a)(9) is amended by striking clause (i) and redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.*

*(2) CONFORMING CHANGES.—*

*(A) Clause (i) of section 401(a)(9)(B) (as so redesignated) is amended—*

*(i) by striking ''FOR OTHER CASES'' in the heading, and*

*(ii) by striking ''the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii)'' and inserting ''his entire interest has been distributed to him,''.*

*(B) Clause (ii) of section 401(a)(9)(B) (as so redesignated) is amended by striking ''clause (ii)'' and inserting ''clause (i)''.*

*(C) Clause (iii) of section 401(a)(9)(B) (as so redesignated) is amended—*

*(i) by striking ''clause (iii)(I)'' and inserting ''clause (ii)(I)'',*

*(ii) by striking ''clause (iii)(III)'' in subclause (I) and inserting ''clause (ii)(III)'',*

*(iii) by striking ''the date on which the employee would have attained the age 70½,'' in subclause (I) and inserting ''April 1 of the calendar year following the calendar year in which the spouse attains 70½,'', and*

*(iv) by striking ''the distributions to such spouse begin,'' in subclause (II) and inserting ''his entire interest has been distributed to him,''.*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.*

*(c) REDUCTION IN EXCISE TAX.—*

*(1) IN GENERAL.—Subsection (a) of section 4974 is amended by striking ''50 percent'' and inserting ''10 percent''.*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 2000.*

***SEC. 1335. CLARIFICATION OF TAX TREATMENT OF DIVISION OF SECTION 457 PLAN BENEFITS UPON DIVORCE.***

*(a) IN GENERAL.—Section 414(p)(11) (relating to application of rules to governmental and church plans) is amended—*

*(1) by inserting ''or an eligible deferred compensation plan (within the meaning of section 457(b))'' after ''subsection (e))'', and*

*(2) in the heading, by striking ''GOVERNMENTAL AND CHURCH PLANS'' and inserting ''CERTAIN OTHER PLANS''.*

*(b) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—Paragraph (10) of section 414(p) is amended by striking ''and section 409(d)'' and inserting ''section 409(d), and section 457(d)''.*

*(c) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—Subsection (p) of section 414 is amended by redesignating paragraph (12) as paragraph (13) and inserting after paragraph (11) the following new paragraph:*

*''(12) TAX TREATMENT OF PAYMENTS FROM A SECTION 457 PLAN.—If a distribution or payment from an eligible deferred compensation plan described in section 457(b) is made pursuant to a qualified domestic relations order, rules similar to the rules of section 402(e)(1)(A) shall apply to such distribution or payment.''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers, distributions, and payments made after December 31, 2000.*

***SEC. 1336. MODIFICATION OF SAFE HARBOR RELIEF FOR HARDSHIP WITHDRAWALS FROM CASH OR DEFERRED ARRANGEMENTS.***

*(a) IN GENERAL.—The Secretary of the Treasury shall revise the regulations relating to hardship distributions under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that the period an employee is prohibited from making elective and employee contributions in order for a distribution to be deemed necessary to satisfy financial need shall be equal to 6 months.*

*(b) EFFECTIVE DATE.—The revised regulations under subsection (a) shall apply to years beginning after December 31, 2000.*

## *PART III—INCREASING PORTABILITY FOR PARTICIPANTS*

***SEC. 1341. ROLLOVERS ALLOWED AMONG VARIOUS TYPES OF PLANS.***

*(a) ROLLOVERS FROM AND TO SECTION 457 PLANS.—*

*(1) ROLLOVERS FROM SECTION 457 PLANS.—*

*(A) IN GENERAL.—Section 457(e) (relating to other definitions and special rules) is amended by adding at the end the following:*

*''(16) ROLLOVER AMOUNTS.—*

*''(A) GENERAL RULE.—In the case of an eligible deferred compensation plan established and maintained by an employer described in subsection (e)(1)(A), if—*

*''(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in an eligible rollover distribution (within the meaning of section 402(c)(4) without regard to subparagraph (C) thereof),*

*''(ii) the employee transfers any portion of the property such employee receives in such distribution to an eligible retirement plan described in section 402(c)(8)(B), and*

*''(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,*

*then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.*

*''(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) (other than paragraph (4)(C)) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).*

*''(C) REPORTING.—Rollovers under this paragraph shall be reported to the Secretary in the same manner as rollovers from qualified retirement plans (as defined in section 4974(c)).''.*

*(B) DEFERRAL LIMIT DETERMINED WITHOUT REGARD TO ROLLOVER AMOUNTS.—Section 457(b)(2) (defining eligible deferred compensation plan) is amended by inserting ''(other than rollover amounts)'' after ''taxable year''.*

*(C) DIRECT ROLLOVER.—Paragraph (1) of section 457(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following:*

*''(C) in the case of a plan maintained by an employer described in subsection (e)(1)(A), the plan meets requirements similar to the requirements of section 401(a)(31).*

*Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of transfer.''.*

*(D) WITHHOLDING.—*

*(i) Paragraph (12) of section 3401(a) is amended by adding at the end the following:*

*''(E) under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or''.*

*(ii) Paragraph (3) of section 3405(c) is amended to read as follows:*

*''(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).''.*

*(iii) LIABILITY FOR WITHHOLDING.—Subparagraph (B) of section 3405(d)(2) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by adding at the end the following:*

*''(iv) section 457(b).''.*

*(2) ROLLOVERS TO SECTION 457 PLANS.—*

*(A) IN GENERAL.—Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by inserting after clause (iv) the following new clause:*

*''(v) an eligible deferred compensation plan described in section 457(b) of an employer described in section 457(e)(1)(A).''.*

*(B) SEPARATE ACCOUNTING.—Section 402(c) is amended by adding at the end the following new paragraph:*

*''(11) SEPARATE ACCOUNTING.—Unless a plan described in clause (v) of paragraph (8)(B) agrees to separately account for amounts rolled into such plan from eligible retirement plans not described in such clause, the plan described in such clause may not accept transfers or rollovers from such retirement plans.''.*

*(C) 10 PERCENT ADDITIONAL TAX.—Subsection (t) of section 72 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new paragraph:*

*''(9) SPECIAL RULE FOR ROLLOVERS TO SECTION 457 PLANS.—For purposes of this subsection, a distribution from an eligible deferred compensation plan (as defined in section 457(b)) of an employer described in section 457(e)(1)(A) shall be treated as a distribution from a qualified retirement plan described in 4974(c)(1) to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in section 4974(c)).''.*

*(b) ALLOWANCE OF ROLLOVERS FROM AND TO 403 (b) PLANS.—*

*(1) ROLLOVERS FROM SECTION 403 (b) PLANS.—Section 403(b)(8)(A)(ii) (relating to rollover*

*amounts) is amended by striking ''such distribution'' and all that follows and inserting ''such distribution to an eligible retirement plan described in section 402(c)(8)(B), and''.*

*(2) ROLLOVERS TO SECTION 403 (b) PLANS.—Section 402(c)(8)(B) (defining eligible retirement plan), as amended by subsection (a), is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by inserting after clause (v) the following new clause:*

*''(vi) an annuity contract described in section 403(b).''.*

*(c) EXPANDED EXPLANATION TO RECIPIENTS OF ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:*

*''(E) of the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.''.*

*(d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relating to rollover where spouse receives distribution after death of employee) is amended by striking ''; except that'' and all that follows up to the end period.*

*(e) CONFORMING AMENDMENTS.—*

*(1) Section 72(o)(4) is amended by striking ''and 408(d)(3)'' and inserting ''403(b)(8), 408(d)(3), and 457(e)(16)''.*

*(2) Section 219(d)(2) is amended by striking ''or 408(d)(3)'' and inserting ''408(d)(3), or 457(e)(16)''.*

*(3) Section 401(a)(31)(B) is amended by striking ''and 403(a)(4)'' and inserting '', 403(a)(4), 403(b)(8), and 457(e)(16)''.*

*(4) Subparagraph (A) of section 402(f)(2) is amended by striking ''or paragraph (4) of section 403(a)'' and inserting '', paragraph (4) of section 403(a), subparagraph (A) of section 403(b)(8), or subparagraph (A) of section 457(e)(16)''.*

*(5) Paragraph (1) of section 402(f) is amended by striking ''from an eligible retirement plan''.*

*(6) Subparagraphs (A) and (B) of section 402(f)(1) are amended by striking ''another eligible retirement plan'' and inserting ''an eligible retirement plan''.*

*(7) Subparagraph (B) of section 403(b)(8) is amended to read as follows:*

*''(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A), except that section 402(f) shall be applied to the payor in lieu of the plan administrator.''.*

*(8) Section 408(a)(1) is amended by striking ''or 403(b)(8)'' and inserting '', 403(b)(8), or 457(e)(16)''.*

*(9) Subparagraphs (A) and (B) of section 415(b)(2) are each amended by striking ''and 408(d)(3)'' and inserting ''403(b)(8), 408(d)(3), and 457(e)(16)''.*

*(10) Section 415(c)(2) is amended by striking ''and 408(d)(3)'' and inserting ''408(d)(3), and 457(e)(16)''.*

*(11) Section 4973(b)(1)(A) is amended by striking ''or 408(d)(3)'' and inserting ''408(d)(3), or 457(e)(16)''.*

*(f) EFFECTIVE DATE; SPECIAL RULE.—*

*(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

*(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.*

***SEC. 1342. ROLLOVERS OF IRAS INTO WORKPLACE RETIREMENT PLANS.***

*(a) IN GENERAL.—Subparagraph (A) of section 408(d)(3) (relating to rollover amounts) is amended by adding ''or'' at the end of clause (i), by striking clauses (ii) and (iii), and by adding at the end the following:*

*''(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to this paragraph).*

*For purposes of clause (ii), the term 'eligible retirement plan' means an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B).''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Paragraph (1) of section 403(b) is amended by striking ''section 408(d)(3)(A)(iii)'' and inserting ''section 408(d)(3)(A)(ii)''.*

*(2) Clause (i) of section 408(d)(3)(D) is amended by striking ''(i), (ii), or (iii)'' and inserting ''(i) or (ii)''.*

*(3) Subparagraph (G) of section 408(d)(3) is amended to read as follows:*

*''(G) SIMPLE RETIREMENT ACCOUNTS.—In the case of any payment or distribution out of a simple retirement account (as defined in subsection (p)) to which section 72(t)(6) applies, this paragraph shall not apply unless such payment or distribution is paid into another simple retirement account.''.*

*(c) EFFECTIVE DATE; SPECIAL RULE.—*

*(1) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

*(2) SPECIAL RULE.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan (as defined in clause (iii) or (iv) of section 402(c)(8)(B) of the Internal Revenue Code of 1986) on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of the amendments made by this section.*

***SEC. 1343. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.***

*(a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph (2) of section 402(c) (relating to maximum amount which may be rolled over) is amended by adding at the end the following: ''The preceding sentence shall not apply to such distribution to the extent—*

*''(A) such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust which is part of a plan which is a defined contribution plan and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or*

*''(B) such portion is transferred to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).''.*

*(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) (relating to limitation) is amended by adding at the end the following: ''The preceding sentence shall not apply to such distribution if the plan to which such distribution is transferred—*

*''(i) agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or*

*''(ii) is an eligible retirement plan described in clause (i) or (ii) of section 402(c)(8)(B).''.*

*(c) RULES FOR APPLYING SECTION 72 TO IRAS.—Paragraph (3) of section 408(d) (relating to special rules for applying section 72) is amended by inserting at the end the following:*

*''(H) APPLICATION OF SECTION 72.—*

*''(i) IN GENERAL.—If—*

*''(I) a distribution is made from an individual retirement plan, and*

*''(II) a rollover contribution is made to an eligible retirement plan described in section 402(c)(8)(B)(iii), (iv), (v), or (vi) with respect to all or part of such distribution,*

*then, notwithstanding paragraph (2), the rules of clause (ii) shall apply for purposes of applying section 72.*

*''(ii) APPLICABLE RULES.—In the case of a distribution described in clause (i)—*

*''(I) section 72 shall be applied separately to such distribution,*

*''(II) notwithstanding the pro rata allocation of income on, and investment in, the contract to distributions under section 72, the portion of such distribution rolled over to an eligible retirement plan described in clause (i) shall be treated as from income on the contract (to the extent of the aggregate income on the contract from all individual retirement plans of the distributee), and*

*''(III) appropriate adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2000.*

***SEC. 1344. HARDSHIP EXCEPTION TO 60-DAY RULE.***

*(a) EXEMPT TRUSTS.—Paragraph (3) of section 402(c) (relating to transfer must be made within 60 days of receipt) is amended to read as follows:*

*''(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.*

*''(B) HARDSHIP EXCEPTION.—The Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.''.*

*(b) IRAS.—Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by section 1343, is amended by adding after subparagraph (H) the following new subparagraph:*

*''(I) WAIVER OF 60-DAY REQUIREMENT.—The Secretary may waive the 60-day requirement under subparagraphs (A) and (D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

***SEC. 1345. TREATMENT OF FORMS OF DISTRIBUTION.***

*(a) PLAN TRANSFERS.—*

*(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (6) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following:*

*''(D) PLAN TRANSFERS.—*

*''(i) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available*

*under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—*

*''(I) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,*

*''(II) the terms of both the transferor plan and the transferee plan authorize the transfer described in subclause (I),*

*''(III) the transfer described in subclause (I) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,*

*''(IV) the election described in subclause (III) was made after the participant or beneficiary received a notice describing the consequences of making the election,*

*''(V) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and*

*''(VI) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.*

*''(ii) Clause (i) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.*

*''(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This subparagraph shall not apply to the elimination of a form of distribution with respect to any participant unless—*

*''(i) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated, and*

*''(ii) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.''.*

*(2) AMENDMENT TO ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following:*

*''(4)(A) A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—*

*''(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan;*

*''(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i);*

*''(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan;*

*''(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election;*

*''(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2); and*

*''(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under the transferee plan in the form of a single sum distribution.*

*''(B) Subparagraph (A) shall apply to plan mergers and other transactions having the effect of a direct transfer, including consolidations of benefits attributable to different employers within a multiple employer plan.*

*''(5) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regulations, a defined contribution plan shall not be treated as failing to meet the requirements of this section merely because of the elimination of a form of distribution previously available thereunder. This paragraph shall not apply to the elimination of a form of distribution with respect to any participant unless—*

*''(A) a single sum payment is available to such participant at the same time or times as the form of distribution being eliminated; and*

*''(B) such single sum payment is based on the same or greater portion of the participant's account as the form of distribution being eliminated.''.*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2000.*

*(b) REGULATIONS.—*

*(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—The last sentence of paragraph (6)(B) of section 411(d) (relating to accrued benefit not to be decreased by amendment) is amended to read as follows: ''The Secretary shall by regulations provide that this subparagraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.''.*

*(2) AMENDMENT TO ERISA.—The last sentence of section 204(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)(2)) is amended to read as follows: ''The Secretary of the Treasury shall by regulations provide that this paragraph shall not apply to any plan amendment that does not adversely affect the rights of participants in a material manner.''.*

*(3) SECRETARY DIRECTED.—Not later than December 31, 2001, the Secretary of the Treasury is directed to issue final regulations under section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974, including the regulations required by the amendments made by this subsection. Such regulations shall apply to plan years beginning after December 31, 2001, or such earlier date as is specified by the Secretary of the Treasury.*

***SEC. 1346. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS.***

*(a) MODIFICATION OF SAME DESK EXCEPTION.—*

*(1) SECTION 401(k).—*

*(A) Section 401(k)(2)(B)(i)(I) (relating to qualified cash or deferred arrangements) is amended by striking ''separation from service'' and inserting ''severance from employment''.*

*(B) Subparagraph (A) of section 401(k)(10) (relating to distributions upon termination of plan or disposition of assets or subsidiary) is amended to read as follows:*

*''(A) IN GENERAL.—An event described in this subparagraph is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).''.*

*(C) Section 401(k)(10) is amended—*

*(i) in subparagraph (B)—*

*(I) by striking ''An event'' in clause (i) and inserting ''A termination'', and*

*(II) by striking ''the event'' in clause (i) and inserting ''the termination'',*

*(ii) by striking subparagraph (C), and*

*(iii) by striking ''OR DISPOSITION OF ASSETS OR SUBSIDIARY'' in the heading.*

*(2) SECTION 403(b).—*

*(A) Paragraphs (7)(A)(ii) and (11)(A) of section 403(b) are each amended by striking ''separates from service'' and inserting ''has a severance from employment''.*

*(B) The heading for paragraph (11) of section 403(b) is amended by striking ''SEPARATION FROM SERVICE'' and inserting ''SEVERANCE FROM EMPLOYMENT''.*

*(3) SECTION 457.—Clause (ii) of section 457(d)(1)(A) is amended by striking ''is separated from service'' and inserting ''has a severance from employment''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

***SEC. 1347. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.***

*(a) 403(b) PLANS.—Subsection (b) of section 403 is amended by adding at the end the following new paragraph:*

*''(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—*

*''(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or*

*''(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.''.*

*(b) 457 PLANS.—*

*(1) Subsection (e) of section 457 is amended by adding after paragraph (16) the following new paragraph:*

*''(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO PURCHASE PERMISSIVE SERVICE CREDIT.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—*

*''(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or*

*''(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof.''.*

*(2) Section 457(b)(2) is amended by striking ''(other than rollover amounts)'' and inserting ''(other than rollover amounts and amounts received in a transfer referred to in subsection (e)(17))''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 2000.*

***SEC. 1348. EMPLOYERS MAY DISREGARD ROLLOVERS FOR PURPOSES OF CASH-OUT AMOUNTS.***

*(a) QUALIFIED PLANS.—*

*(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 411(a)(11) (relating to restrictions on certain mandatory distributions) is amended by adding at the end the following:*

*''(D) SPECIAL RULE FOR ROLLOVER CONTRIBUTIONS.—A plan shall not fail to meet the requirements of this paragraph if, under the terms of the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).''.*

*(2) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended by adding at the end the following:*

*''(4) A plan shall not fail to meet the requirements of this subsection if, under the terms of*

*the plan, the present value of the nonforfeitable accrued benefit is determined without regard to that portion of such benefit which is attributable to rollover contributions (and earnings allocable thereto). For purposes of this subparagraph, the term 'rollover contributions' means any rollover contribution under sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue Code of 1986.''.*

*(b) ELIGIBLE DEFERRED COMPENSATION PLANS.—Clause (i) of section 457(e)(9)(A) is amended by striking ''such amount'' and inserting ''the portion of such amount which is not attributable to rollover contributions (as defined in section 411(a)(11)(D))''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

**SEC. 1349. MINIMUM DISTRIBUTION AND INCLUSION REQUIREMENTS FOR SECTION 457 PLANS.**

*(a) MINIMUM DISTRIBUTION REQUIREMENTS.—Paragraph (2) of section 457(d) (relating to distribution requirements) is amended to read as follows:*

*''(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of section 401(a)(9).''.*

*(b) INCLUSION IN GROSS INCOME.—*

*(1) YEAR OF INCLUSION.—Subsection (a) of section 457 (relating to year of inclusion in gross income) is amended to read as follows:*

*''(a) YEAR OF INCLUSION IN GROSS INCOME.—*

*''(1) IN GENERAL.—Any amount of compensation deferred under an eligible deferred compensation plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income—*

*''(A) is paid to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(A), and*

*''(B) is paid or otherwise made available to the participant or other beneficiary, in the case of a plan of an eligible employer described in subsection (e)(1)(B).*

*''(2) SPECIAL RULE FOR ROLLOVER AMOUNTS.—To the extent provided in section 72(t)(9), section 72(t) shall apply to any amount includible in gross income under this subsection.''.*

*(2) CONFORMING AMENDMENTS.—*

*(A) So much of paragraph (9) of section 457(e) as precedes subparagraph (A) is amended to read as follows:*

*''(9) BENEFITS OF TAX EXEMPT ORGANIZATION PLANS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—In the case of an eligible deferred compensation plan of an employer described in subsection (e)(1)(B)—''.*

*(B) Section 457(d) is amended by adding at the end the following new paragraph:*

*''(3) SPECIAL RULE FOR GOVERNMENT PLAN.—An eligible deferred compensation plan of an employer described in subsection (e)(1)(A) shall not be treated as failing to meet the requirements of this subsection solely by reason of making a distribution described in subsection (e)(9)(A).''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.*

## PART IV—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

**SEC. 1351. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.**

*(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 412(c)(7) (relating to full-funding limitation) is amended—*

*(1) by striking ''the applicable percentage'' in subparagraph (A)(i)(I) and inserting ''in the case of plan years beginning before January 1, 2004, the applicable percentage'', and*

*(2) by amending subparagraph (F) to read as follows:*

*''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:*

| *''In the case of any plan year beginning in—* | *The applicable percentage is—* |
|---|---|
| *2001* | *160* |
| *2002* | *165* |
| *2003* | *170.''.* |

*(b) AMENDMENT TO ERISA.—Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—*

*(1) by striking ''the applicable percentage'' in subparagraph (A)(i)(I) and inserting ''in the case of plan years beginning before January 1, 2004, the applicable percentage'', and*

*(2) by amending subparagraph (F) to read as follows:*

*''(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage shall be determined in accordance with the following table:*

| *''In the case of any plan year beginning in—* | *The applicable percentage is—* |
|---|---|
| *2001* | *160* |
| *2002* | *165* |
| *2003* | *170.''.* |

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.*

**SEC. 1352. MAXIMUM CONTRIBUTION DEDUCTION RULES MODIFIED AND APPLIED TO ALL DEFINED BENEFIT PLANS.**

*(a) IN GENERAL.—Subparagraph (D) of section 404(a)(1) (relating to special rule in case of certain plans) is amended to read as follows:*

*''(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—*

*''(i) IN GENERAL.—In the case of any defined benefit plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded termination liability (determined as if the proposed termination date referred to in section 4041(b)(2)(A)(i)(II) of the Employee Retirement Income Security Act of 1974 were the last day of the plan year).*

*''(ii) PLANS WITH LESS THAN 100 PARTICIPANTS.—For purposes of this subparagraph, in the case of a plan which has less than 100 participants for the plan year, termination liability shall not include the liability attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years before the termination date.*

*''(iii) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining whether a plan has more than 100 participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(C))) shall be treated as one plan, but only employees of such member or employer shall be taken into account.*

*''(iv) PLANS ESTABLISHED AND MAINTAIN BY PROFESSIONAL SERVICE EMPLOYERS.—Clause (i) shall not apply to a plan described in section 4021(b)(13) of the Employee Retirement Income Security Act of 1974.''.*

*(b) CONFORMING AMENDMENT.—Paragraph (6) of section 4972(c) is amended to read as follows:*

*''(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account so much of the contributions to one or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the greater of—*

*''(A) the amount of contributions not in excess of 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans, or*

*''(B) the sum of—*

*''(i) the amount of contributions described in section 401(m)(4)(A), plus*

*''(ii) the amount of contributions described in section 402(g)(3)(A).*

*For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B).''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.*

**SEC. 1353. EXCISE TAX RELIEF FOR SOUND PENSION FUNDING.**

*(a) IN GENERAL.—Subsection (c) of section 4972 (relating to nondeductible contributions) is amended by adding at the end the following new paragraph:*

*''(7) DEFINED BENEFIT PLAN EXCEPTION.—In determining the amount of nondeductible contributions for any taxable year, an employer may elect for such year not to take into account any contributions to a defined benefit plan except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof). For purposes of this paragraph, the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to defined contribution plans and then to amounts described in this paragraph. If an employer makes an election under this paragraph for a taxable year, paragraph (6) shall not apply to such employer for such taxable year.''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1354. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY DEFINED BENEFIT PLANS SIGNIFICANTLY REDUCING FUTURE BENEFIT ACCRUALS.**

*(a) AMENDMENT TO 1986 CODE.—Chapter 43 of subtitle D (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:*

**"SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING BENEFIT ACCRUALS TO SATISFY NOTICE REQUIREMENTS.**

*''(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.*

*''(b) AMOUNT OF TAX.—*

*''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be $100 for each day in the noncompliance period with respect to such failure.*

*''(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period beginning on the date the failure first occurs and ending on the date the failure is corrected.*

*''(c) LIMITATIONS ON AMOUNT OF TAX.—*

*''(1) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures that are due to reasonable cause and not to willful neglect, the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed $500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as one plan. For purposes of this paragraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.*

*''(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.*

*''(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):*

''(1) In the case of a plan other than a multiemployer plan, the employer.

''(2) In the case of a multiemployer plan, the plan.

''(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFICANTLY REDUCING BENEFIT ACCRUALS.—

''(1) IN GENERAL.—If an applicable pension plan is amended to provide for a significant reduction in the rate of future benefit accrual, the plan administrator shall provide written notice to each applicable individual (and to each employee organization representing applicable individuals).

''(2) NOTICE.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow applicable individuals to understand the effect of the plan amendment.

''(3) TIMING OF NOTICE.—Except as provided in regulations, the notice required by paragraph (1) shall be provided within a reasonable time before the effective date of the plan amendment.

''(4) DESIGNEES.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(5) NOTICE BEFORE ADOPTION OF AMENDMENT.—A plan shall not be treated as failing to meet the requirements of paragraph (1) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.

''(f) APPLICABLE INDIVIDUAL; APPLICABLE PENSION PLAN.—For purposes of this section—

''(1) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means, with respect to any plan amendment—

''(A) any participant in the plan, and

''(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under an applicable qualified domestic relations order (within the meaning of section 414(p)(1)(A)),

who may reasonably be expected to be affected by such plan amendment.

''(2) APPLICABLE PENSION PLAN.—The term 'applicable pension plan' means—

''(A) any defined benefit plan, or

''(B) an individual account plan which is subject to the funding standards of section 412,

which had 100 or more participants who had accrued a benefit, or with respect to whom contributions were made, under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective. Such term shall not include a governmental plan (within the meaning of section 414(d)) or a church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made.''.

(b) AMENDMENT TO ERISA.—Section 204(h) of the Employee Retirement Income Security Act or 1974 (29 U.S.C. 1054(h)) is amended by adding at the end the following new paragraph:

''(3)(A) A plan to which paragraph (1) applies shall not be treated as meeting the requirements of such paragraph unless, in addition to any notice required to be provided to an individual or organization under such paragraph, the plan administrator provides the notice described in subparagraph (B).

''(B) The notice required by subparagraph (A) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations prescribed by the Secretary of the Treasury) to allow individuals to understand the effect of the plan amendment.

''(C) Except as provided in regulations prescribed by the Secretary of the Treasury, the notice required by subparagraph (A) shall be provided within a reasonable time before the effective date of the plan amendment.

''(D) A plan shall not be treated as failing to meet the requirements of subparagraph (A) merely because notice is provided before the adoption of the plan amendment if no material modification of the amendment occurs before the amendment is adopted.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of subtitle D is amended by adding at the end the following new item:

''Sec. 4980F. Failure of applicable plans reducing benefit accruals to satisfy notice requirements.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan amendments taking effect on or after the date of the enactment of this Act.

(2) TRANSITION.—Until such time as the Secretary of the Treasury issues regulations under sections 4980F(e)(2) and (3) of the Internal Revenue Code of 1986 and section 204(h)(3) of the Employee Retirement Income Security Act of 1974 (as added by the amendments made by this section), a plan shall be treated as meeting the requirements of such sections if it makes a good faith effort to comply with such requirements.

(3) SPECIAL RULE.—The period for providing any notice required by the amendments made by this section shall not end before the date which is 3 months after the date of the enactment of this Act.

**SEC. 1355. PROTECTION OF INVESTMENT OF EMPLOYEE CONTRIBUTIONS TO 401(K) PLANS.**

(a) IN GENERAL.—Section 1524(b) of the Taxpayer Relief Act of 1997 is amended to read as follows:

''(b) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to elective deferrals for plan years beginning after December 31, 1998.

''(2) NONAPPLICATION TO PREVIOUSLY ACQUIRED PROPERTY.—The amendments made by this section shall not apply to any elective deferral which is invested in assets consisting of qualifying employer securities, qualifying employer real property, or both, if such assets were acquired before January 1, 1999.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the provision of the Taxpayer Relief Act of 1997 to which it relates.

**SEC. 1356. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.**

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.

## PART V—REDUCING REGULATORY BURDENS

**SEC. 1361. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

(a) IN GENERAL.—Section 412(c)(9) (relating to annual valuation) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(A) IN GENERAL.—For purposes'', and

(2) by adding at the end the following:

''(B) ELECTION TO USE PRIOR YEAR VALUATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), if, for any plan year—

''(I) an election is in effect under this subparagraph with respect to a plan, and

''(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

''(ii) EXCEPTIONS.—

''(I) ACTUAL VALUATION EVERY 3 YEARS.—Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

''(II) REGULATIONS.—Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

''(iii) ADJUSTMENTS.—Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) ELECTION.—An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary.''.

(b) AMENDMENTS TO ERISA.—Paragraph (9) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(c)) is amended—

(1) by inserting ''(A)'' after ''(9)'', and

(2) by adding at the end the following:

''(B)(i) Except as provided in clause (ii), if, for any plan year—

''(I) an election is in effect under this subparagraph with respect to a plan, and

''(II) the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)), determined as of the valuation date for the preceding plan year,

then this section shall be applied using the information available as of such valuation date.

''(ii)(I) Clause (i) shall not apply for more than 2 consecutive plan years and valuation shall be under subparagraph (A) with respect to any plan year to which clause (i) does not apply by reason of this subclause.

''(II) Clause (i) shall not apply to the extent that more frequent valuations are required under the regulations under subparagraph (A).

''(iii) Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

''(iv) An election under this subparagraph, once made, shall be irrevocable without the consent of the Secretary of the Treasury.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

**SEC. 1362. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT LOSS OF DIVIDEND DEDUCTION.**

(a) IN GENERAL.—Section 404(k)(2)(A) (defining applicable dividends) is amended by striking ''or'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

''(iii) is, at the election of such participants or their beneficiaries—

''(I) payable as provided in clause (i) or (ii), or

''(II) paid to the plan and reinvested in qualifying employer securities, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. 1363. REPEAL OF TRANSITION RULE RELATING TO CERTAIN HIGHLY COMPENSATED EMPLOYEES.**

(a) IN GENERAL.—Paragraph (4) of section 1114(c) of the Tax Reform Act of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to plan years beginning after December 31, 1999.

**SEC. 1364. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

(a) IN GENERAL.—The Secretary of the Treasury shall modify Treasury Regulations section 1.410(b)–6(g) to provide that employees of an organization described in section 403(b)(1)(A)(i) of

*the Internal Revenue Code of 1986 who are eligible to make contributions under section 403(b) of such Code pursuant to a salary reduction agreement may be treated as excludable with respect to a plan under section 401 (k) or (m) of such Code that is provided under the same general arrangement as a plan under such section 401(k), if—*

*(1) no employee of an organization described in section 403(b)(1)(A)(i) of such Code is eligible to participate in such section 401(k) plan or section 401(m) plan, and*

*(2) 95 percent of the employees who are not employees of an organization described in section 403(b)(1)(A)(i) of such Code are eligible to participate in such plan under such section 401 (k) or (m).*

*(b) EFFECTIVE DATE.—The modification required by subsection (a) shall apply as of the same date set forth in section 1426(b) of the Small Business Job Protection Act of 1996.*

**SEC. 1365. CLARIFICATION OF TREATMENT OF EMPLOYER-PROVIDED RETIREMENT ADVICE.**

*(a) IN GENERAL.—Subsection (a) of section 132 (relating to exclusion from gross income) is amended by striking ''or'' at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting '', or'', and by adding at the end the following new paragraph:*

*''(7) qualified retirement planning services.''.*

*(b) QUALIFIED RETIREMENT PLANNING SERVICES DEFINED.—Section 132 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:*

*''(m) QUALIFIED RETIREMENT PLANNING SERVICES.—*

*''(1) IN GENERAL.—For purposes of this section, the term 'qualified retirement planning services' means any retirement planning service provided to an employee and his spouse by an employer maintaining a qualified employer plan.*

*''(2) NONDISCRIMINATION RULE.—Subsection (a)(7) shall apply in the case of highly compensated employees only if such services are available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.*

*''(3) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term 'qualified employer plan' means a plan, contract, pension, or account described in section 219(g)(5).''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1366. REPORTING SIMPLIFICATION.**

*(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—*

*(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.*

*(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term ''one-participant retirement plan'' means a retirement plan that—*

*(A) on the first day of the plan year—*

*(i) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated), or*

*(ii) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),*

*(B) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business,*

*(C) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses),*

*(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and*

*(E) does not cover a business that leases employees.*

*(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.*

*(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case of a retirement plan which covers less than 25 employees on the first day of the plan year and meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2), the Secretary of the Treasury shall provide for the filing of a simplified annual return that is substantially similar to the annual return required to be filed by a one-participant retirement plan.*

*(c) EFFECTIVE DATE.—The provisions of this section shall take effect on January 1, 2001.*

**SEC. 1367. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.**

*The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—*

*(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program,*

*(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures,*

*(3) extending the duration of the self-correction period under the Administrative Policy Regarding Self-Correction for significant compliance failures,*

*(4) expanding the availability to correct insignificant compliance failures under the Administrative Policy Regarding Self-Correction during audit, and*

*(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.*

**SEC. 1368. MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.**

*(a) IN GENERAL.—Section 132(f)(3) (relating to cash reimbursements) is amended by striking the last sentence.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.*

**SEC. 1369. REPEAL OF THE MULTIPLE USE TEST.**

*(a) IN GENERAL.—Paragraph (9) of section 401(m) is amended to read as follows:*

*''(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k), including regulations permitting appropriate aggregation of plans and contributions.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2000.*

**SEC. 1370. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.**

*(a) NONDISCRIMINATION.—*

*(1) IN GENERAL.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect before January 1, 1994, but only if—*

*(A) the plan satisfies conditions prescribed by the Secretary to appropriately limit the availability of such test, and*

*(B) the plan is submitted to the Secretary for a determination of whether it satisfies such test.*

*Subparagraph (B) shall only apply to the extent provided by the Secretary.*

*(2) EFFECTIVE DATES.—*

*(A) REGULATIONS.—The regulation required by paragraph (1) shall apply to years beginning after December 31, 2000.*

*(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under paragraph (1)(A) shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.*

*(b) COVERAGE TEST.—*

*(1) IN GENERAL.—Section 410(b)(1) (relating to minimum coverage requirements) is amended by adding at the end the following:*

*''(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—*

*''(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,*

*''(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and*

*''(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph.*

*Clause (ii) shall apply only to the extent provided by the Secretary.''.*

*(2) EFFECTIVE DATES.—*

*(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2000.*

*(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.*

*(c) LINE OF BUSINESS RULES.—The Secretary of the Treasury shall, on or before December 31, 2000, modify the existing regulations issued under section 414(r) of the Internal Revenue Code of 1986 in order to expand (to the extent that the Secretary determines appropriate) the ability of a pension plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.*

**SEC. 1371. EXTENSION TO INTERNATIONAL ORGANIZATIONS OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.**

*(a) IN GENERAL.—Subparagraph (G) of section 401(a)(5), subparagraph (H) of section 401(a)(26), subparagraph (G) of section 401(k)(3), and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by inserting ''or by an international organization which is described in section 414(d)'' after ''or instrumentality thereof)''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) The headings for subparagraph (G) of section 401(a)(5) and subparagraph (H) of section 401(a)(26) are each amended by inserting ''AND INTERNATIONAL ORGANIZATION'' after ''GOVERNMENTAL''.*

*(2) Subparagraph (G) of section 401(k)(3) is amended by inserting ''STATE AND LOCAL GOVERNMENTAL AND INTERNATIONAL ORGANIZATION PLANS.—'' after ''(G)''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2000.*

## *PART VI—PLAN AMENDMENTS*

**SEC. 1381. PROVISIONS RELATING TO PLAN AMENDMENTS.**

*(a) IN GENERAL.—If this section applies to any plan or contract amendment—*

*(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and*

*(2) such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 by reason of such amendment.*

*(b) AMENDMENTS TO WHICH SECTION APPLIES.—*

*(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—*

*(A) pursuant to any amendment made by this title, or pursuant to any regulation issued under this title, and*

*(B) on or before the last day of the first plan year beginning on or after January 1, 2003.*

*In the case of a government plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting ''2005'' for ''2003''.*

*(2) CONDITIONS.—This section shall not apply to any amendment unless—*

*(A) during the period—*

*(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and*

*(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),*

*the plan or contract is operated as if such plan or contract amendment were in effect, and*

*(B) such plan or contract amendment applies retroactively for such period.*

***Subtitle D—Revenue Provisions***

***SEC. 1391. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.***

*(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—*

*(1) IN GENERAL.—Subsection (a) of section 453 (relating to installment method) is amended to read as follows:*

*''(a) USE OF INSTALLMENT METHOD.—*

*''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.*

*''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).''.*

*(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.*

*(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.*

***SEC. 1392. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.***

*(a) IN GENERAL.—Subsection (e) of section 6655 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:*

*''(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—*

*''(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.*

*''(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term 'closely held real estate investment trust' means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.''*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after November 15, 1999.*

***TITLE XIV—TECHNICAL AMENDMENTS***

***SEC. 1401. DEFINITIONS.***

*Section 101 of title 11, United States Code, as amended by section 1003 of this Act, is amended—*

*(1) by striking ''In this title—'' and inserting ''In this title:'';*

*(2) in each paragraph, by inserting ''The term'' after the paragraph designation;*

*(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';*

*(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;*

*(5) in paragraph (51B)—*

*(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and*

*(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;*

*(6) by striking paragraph (54) and inserting the following:*

*''(54) The term 'transfer' means—*

*''(A) the creation of a lien;*

*''(B) the retention of title as a security interest;*

*''(C) the foreclosure of a debtor's equity of redemption; or*

*''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—*

*''(i) property; or*

*''(ii) an interest in property;'';*

*(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and*

*(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.*

***SEC. 1402. ADJUSTMENT OF DOLLAR AMOUNTS.***

*Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.*

***SEC. 1403. 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. 1404. TECHNICAL AMENDMENTS.***

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

*(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and*

*(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.*

***SEC. 1405. PENALTY FOR PERSONS WHO NEGLIGENTLY 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. 1406. 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. 1407. 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. 1408. 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. 1409. EXCEPTIONS TO DISCHARGE.***

*Section 523 of title 11, United States Code, as amended by section 714 of this Act, is amended—*

*(1) 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 such paragraph after paragraph (14) of subsection (a);*

*(2) in subsection (a)(9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and*

*(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.*

***SEC. 1410. EFFECT OF DISCHARGE.***

*Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.*

***SEC. 1411. 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. 1412. 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. 1413. PREFERENCES.***

*(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201(b) of this Act, is amended—*

*(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and*

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

*''(i) If the trustee avoids under subsection (b) a 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.''.*

*(b) APPLICABILITY.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.*

***SEC. 1414. 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. 1415. DISPOSITION OF PROPERTY OF THE ESTATE.***

*Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.*

***SEC. 1416. GENERAL PROVISIONS.***

*Section 901(a) of title 11, United States Code, as amended by section 502 of this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.*

***SEC. 1417. 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. 1418. 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. 1419. 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. 1420. 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. 1421. 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. 1422. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.**

*(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—*

*''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and*

*''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.*

*(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, is amended by adding at the end the following:*

*''(15) 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, is amended by adding at the end the following:*

*''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.*

*(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, 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.*

*(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.*

**SEC. 1423. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.**

*Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.*

**SEC. 1424. 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. 1425. BANKRUPTCY JUDGESHIPS.**

*(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 2000''.*

*(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 appointed under paragraph (1);*

*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 positions.*

*(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.''.*

**SEC. 1426. FAMILY FISHERMEN.**

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

*(1) by inserting after paragraph (7) the following:*

*''(7A) 'commercial fishing operation' includes—*

*''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;*

*''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and*

*''(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;*

*''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';*

*(2) by inserting after paragraph (19) the following:*

*''(19A) 'family fisherman' means—*

*''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—*

*''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and*

*''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or*

*''(B) a corporation or partnership—*

*''(i) in which more than 50 percent of the outstanding stock or equity is held by—*

*''(I) 1 family that conducts the commercial fishing operation; or*

*''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and*

*''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;*

*''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and*

*''(III) if such corporation issues stock, such stock is not publicly traded;''; and*

*(3) by inserting after paragraph (19A) the following:*

*''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual*

*income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.*

*(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.*

*(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—*

*(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';*

*(2) in section 1201, by adding at the end the following:*

*''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.*

*''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';*

*(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';*

*(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and*

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

***''§ 1232. Additional provisions relating to family fishermen***

*''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).*

*''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.*

*''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.*

*''(b) A lien described in this subsection is—*

*''(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or*

*''(2) a lien under applicable State law (or the law of a political subdivision thereof).*

*''(c) Subsection (a) shall not apply to—*

*''(1) a claim made by a member of a crew or a seaman including a claim made for—*

*''(A) wages, maintenance, or cure; or*

*''(B) personal injury; or*

*''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.*

*''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.*

*(d) CLERICAL AMENDMENTS.—*

*(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:*

***''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.***

*(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:*

*''1232. Additional provisions relating to family fishermen.''.*

*(e) MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.—Nothing in this title is intended to change, affect, or amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).*

***SEC. 1427. COMPENSATING TRUSTEES.***

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

*(1) in section 104(b)(1) in the matter preceding subparagraph (A) by—*

*(A) striking ''and 523(a)(2)(C)''; and*

*(B) inserting ''523(a)(2)(C), and 1326(b)(3)'' before ''immediately'';*

*(2) in section 326, by inserting at the end the following:*

*''(e) Notwithstanding any other provision of this section, if a trustee in a chapter 7 case commences a motion to dismiss or convert under section 707(b) and such motion is granted, the court shall allow reasonable compensation under section 330(a) of this title for the services and expenses of the trustee and the trustee's counsel in preparing and presenting such motion and any related appeals.''; and*

*(3) in section 1326(b)—*

*(A) in paragraph (1), by striking ''and'';*

*(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and*

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

*''(3) if a chapter 7 trustee has been allowed compensation under section 326(e) in a case converted to this chapter or in a case dismissed under section 707(b) in which the debtor in this case was a debtor—*

*''(A) the amount of such unpaid compensation which shall be paid monthly by prorating such amount over the remaining duration of the plan, but a monthly payment shall not exceed the greater of—*

*''(i) $25; or*

*''(ii) the amount payable to unsecured nonpriority creditors as provided by the plan multiplied by 5 percent, and the result divided by the number of months in the plan; and*

*''(B) notwithstanding any other provision of this title—*

*''(i) such compensation is payable and may be collected by the trustee under this paragraph even if such amount has been discharged in a prior proceeding under this title; and*

*''(ii) such compensation is payable in a case under this chapter only to the extent permitted by this paragraph.''.*

***SEC. 1428. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.***

*Section 362(b)(18) of title 11, United States Code, is amended to read as follows:*

*''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition.''.*

***SEC. 1429. PROVISION OF ELECTRONIC FTC PAMPHLET WITH ELECTRONIC CREDIT CARD APPLICATIONS AND SOLICITATIONS.***

*Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—*

*(1) by redesignating paragraph (5) as paragraph (6); and*

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

*''(5) INCLUSION OF FEDERAL TRADE COMMISSION PAMPHLET.—*

*''(A) IN GENERAL.—Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation or an advertisement to open such an account without requiring an application, that is electronically transmitted to or accessed by a consumer shall be accompanied by an electronic version (or an electronic link thereto) of the pamphlet published by the Federal Trade Commission relating to choosing and using credit cards.*

*''(B) COSTS.—The card issuer with respect to an account described in subparagraph (A) shall be responsible for all costs associated with compliance with that subparagraph.''.*

***SEC. 1430. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.***

*Section 105 of title 11, United States Code, is amended by inserting at the end the following:*

*''(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.''.*

***SEC. 1431. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.***

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

*''(14B) fines or penalties imposed under Federal election law;''.*

***SEC. 1432. PROHIBITION ON CERTAIN RETROACTIVE FINANCE CHARGES.***

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

*''(h) PROHIBITION ON RETROACTIVE FINANCE CHARGES.—*

*''(1) IN GENERAL.—In the case of any credit card account under an open end credit plan, if the creditor provides a grace period applicable to any new extension of credit under the account, no finance charge may be imposed subsequent to the grace period with regard to any amount that was paid on or before the end of that grace period.*

*''(2) DEFINITION.—For purposes of this subsection, the term 'grace period' means a period during which the extension of credit may be repaid, in whole or in part, without incurring a finance charge for the extension of credit.''.*

***SEC. 1433. SENSE OF SENATE CONCERNING CREDIT WORTHINESS.***

*The Board of Governors of the Federal Reserve System shall report to the Senate Committee on Banking, Housing, and Urban Affairs and the House of Representatives Committee on Banking and Financial Services within 6 months of enactment of this Act as to whether and how the location of the residence of an applicant for a credit card is considered by financial institutions in deciding whether an applicant should be granted such credit card.*

***SEC. 1434. JUDICIAL EDUCATION.***

*The Director of the Administrative Office of the United States Courts, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act, including the requirements relating to the 707(b) means test and reaffirmations.*

***SEC. 1435. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.***

*(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:*

*''(c)(1) Except as provided in subsection (d) of this section, and except as provided in subsection (c) of section 507, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of the business of the seller, to reclaim such goods if the debtor has received such goods within 45 days prior to the commencement of a case under this title, but such seller may not reclaim any such goods unless the seller demands in writing the reclamation of such goods—*

*''(A) before 45 days after the date of receipt of such goods by the debtor; or*

*''(B) if such 45-day period expires after the commencement of the case, before 20 days after the date of commencement of the case.*

*''(2) Notwithstanding the failure of the seller to provide notice in a manner consistent with this subsection, the seller shall be entitled to assert the rights established in section 503(b)(7) of this title.''.*

*(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, is amended—*

*(1) in paragraph (5), by striking ''and'' at the end;*

*(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and*

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

*''(7) the invoice price of any goods received by the debtor within 20 days of the date of filing of a case under this title where the goods have been sold to the debtor in the ordinary course of such seller's business.''.*

**SEC. 1436. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.**

*In the case of an individual under chapter 7, the court shall not grant a discharge unless requested tax documents have been provided to the court. In the case of an individual under chapter 11 or 13, the court shall not confirm a plan of reorganization unless requested tax documents have been filed with the court.*

**SEC. 1437. DEFINITION OF FAMILY FARMER.**

*Section 101(18) of title 11, United States Code, is amended—*

*(1) in subparagraph (A) by—*

*(A) striking ''$1,500,000'' and inserting ''$3,000,000''; and*

*(B) striking ''80'' and inserting ''50''; and*

*(2) in subparagraph (B)(ii) by striking ''$1,500,000'' and inserting ''$3,000,000''.*

**SEC. 1438. ENCOURAGING CREDITWORTHINESS.**

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

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

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

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

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

*(A) indiscriminately;*

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

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

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

*(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—*

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

*(2) may issue regulations that would require additional disclosures to consumers; and*

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

**SEC. 1439. PROPERTY NO LONGER SUBJECT TO REDEMPTION.**

*Section 541(b) of title 11 of the United States Code is amended by adding at the end the following:*

*''(6) any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money, where—*

*''(A) the tangible personal property is in the possession of the pledgee or transferee;*

*''(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and*

*''(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title.''.*

**SEC. 1440. AVAILABILITY OF TOLL-FREE ACCESS TO INFORMATION.**

*Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)), as added by this Act, is amended by adding at the end the following:*

*''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.'. ''.*

## TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

**SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

*(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.*

*(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.*

## TITLE XVI—FINANCIAL INSTITUTIONS INSOLVENCY IMPROVEMENT

**SEC. 1601. SHORT TITLE.**

*This title may be cited as the ''Financial Institutions Insolvency Improvement Act of 2000''.*

**SEC. 1602. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.**

*(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.*

*(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:*

*''(ii) SECURITIES CONTRACT.—The term 'securities contract'—*

*''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;*

*''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;*

*''(III) means any option entered into on a national securities exchange relating to foreign currencies;*

*''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;*

*''(V) means any margin loan;*

*''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause (other than subclause (II));*

*''(VII) means any combination of the agreements or transactions referred to in this clause (other than subclause (II));*

*''(VIII) means any option to enter into any agreement or transaction referred to in this clause (other than subclause (II));*

*''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and*

*''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause (other than subclause (II)).''.*

*(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:*

*''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—*

*''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;*

*''(II) with respect to a foreign futures commission merchant, a foreign future;*

*''(III) with respect to a leverage transaction merchant, a leverage transaction;*

*''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;*

*''(V) with respect to a commodity options dealer, a commodity option;*

*''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;*

*''(VII) any combination of the agreements or transactions referred to in this clause;*

*''(VIII) any option to enter into any agreement or transaction referred to in this clause;*

*''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or*

*''(X) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.*

*(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:*

*''(iv) FORWARD CONTRACT.—The term 'forward contract' means—*

*''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date that is more than 2 days after the date on which the contract is entered into, including a repurchase agreement, reverse repurchase agreement, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;*

*''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);*

*''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);*

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).''.

(e) DEFINITION OF REPURCHASE AGREEMENT AND REVERSE REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT; REVERSE REPURCHASE AGREEMENT.—The terms 'repurchase agreement' and 'reverse repurchase agreement'—

''(I) mean an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described in this subclause, at a date certain that is not later than 1 year after the date of such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—The Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement'—

''(I) means any agreement, including the terms and conditions incorporated by reference in any such agreement, that is—

''(aa) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(bb) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(cc) a currency swap, option, future, or forward agreement;

''(dd) an equity index or equity swap, option, future, or forward agreement;

''(ee) a debt index or debt swap, option, future, or forward agreement;

''(ff) a credit spread or credit swap, option, future, or forward agreement; or

''(gg) a commodity index or commodity swap, option, future, or forward agreement;

''(II) means any agreement or transaction that is similar to any other agreement or transaction referred to in this clause, that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement), and that is a forward, swap, future, or option on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

''(III) means any combination of agreements or transactions referred to in this clause;

''(IV) means any option to enter into any agreement or transaction referred to in this clause;

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV);

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), or (IV); and

''(VII) is applicable for purposes of this Act 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 promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A), by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(2) in subparagraph (A)(i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration'';

(3) by striking clause (ii) of subparagraph (A) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i); or''; and

(4) by striking clause (ii) of subparagraph (E) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i); or''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes (12 U.S.C. 91), or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

**SEC. 1603. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.**

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) or to disaffirm or repudiate any such contract in accordance with subsection (e)(1).

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

**SEC. 1604. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.**

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property, or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contract and related claims and property pursuant to subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch, or agency, to the qualified financial contract, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements, or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACT SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—If a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITION.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution that the Corporation determines, by regulation, to be a financial institution.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended by striking the flush material immediately following clause (ii) and inserting the following:

''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(A) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—A financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or that is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of subsection (e)(9) does not include—

''(i) a bridge bank; or

''(ii) a depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between such institution and the Corporation as receiver for a depository institution in default.''.

**SEC. 1605. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.**

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) in paragraph (8)(C)(i), by striking ''(11)'' and inserting ''(12)'';

(3) in paragraph (8)(E), by striking ''(12)'' and inserting ''(13)''; and

(4) by inserting after paragraph (10) the following:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the right to disaffirm or repudiate with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''.

**SEC. 1606. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.**

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS 1 AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

**SEC. 1607. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.**

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by striking subparagraph (C) (as redesignated) and inserting the following:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(2) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(3) in paragraph (14)(A), by striking clause (i) and inserting the following:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(4) by adding at the end the following:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of Federal or State law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the

*Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—*

*(1) by striking subsection (a) and inserting the following:*

*''(a) GENERAL RULE.—Notwithstanding any other provision of Federal or State law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970) the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of the clearing organization shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and*

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

*''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.*

*(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended by adding at the end the following:*

***''SEC. 408. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.***

*''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, except that for such purpose—*

*''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;*

*''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of that Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and*

*''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.*

*''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.*

*''(c) REGULATORY AUTHORITY.—*

*''(1) IN GENERAL.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.*

*''(2) SPECIFIC REQUIREMENT.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.*

*''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.*

***SEC. 1608. RECORDKEEPING REQUIREMENTS.***

*Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following:*

*''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.''.*

***SEC. 1609. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.***

*Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:*

*''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—*

*''(A) IN GENERAL.—An agreement described in subparagraph (B) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely on the basis—*

*''(i) that the agreement was not executed contemporaneously with the acquisition of the collateral; or*

*''(ii) of any pledge, delivery, or substitution of the collateral made in accordance with the agreement.*

*''(B) AGREEMENT DESCRIBED.—An agreement is described in this subparagraph if it is an agreement to provide for the lawful collateralization of—*

*''(i) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;*

*''(ii) securities deposited under section 345(b)(2) of title 11, United States Code;*

*''(iii) extensions of credit, including an overdraft, from a Federal reserve bank or Federal home loan bank; or*

*''(iv) 1 or more qualified financial contracts (as defined in section 11(e)(8)(D)).''.*

***SEC. 1610. SIPC STAY.***

*Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following:*

*''(C) EXCEPTION FROM STAY.—*

*''(i) IN GENERAL.—Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) of this section nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual right of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, each as defined in title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with 1 or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements.*

*''(ii) STAYS ON FORECLOSURE.—Notwithstanding clause (i), an application, order, or decree described therein may operate as a stay of the foreclosure on securities collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement or securities lent under a securities lending agreement.*

*''(iii) DEFINITION.—As used in this section, the term 'contractual right' includes—*

*''(I) a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency;*

*''(II) a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof; and*

*''(III) a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.*

***SEC. 1611. FEDERAL RESERVE COLLATERAL REQUIREMENTS.***

*Section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended in the third sentence of the second undesignated paragraph, by striking ''acceptances acquired under section 13 of this Act'' and inserting ''acceptances acquired under section 10A, 10B, 13, or 13A''.*

***SEC. 1612. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.***

*(a) SEVERABILITY.—If any provision of this title or any amendment made by this title, or the application of any such provision or amendment to any person or circumstance, is held to be unconstitutional, the remaining provisions of and amendments made by this title and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.*

*(b) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of enactment of this Act.*

*(c) APPLICATION OF AMENDMENTS.—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, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.*

## *TITLE XVII—METHAMPHETAMINE AND OTHER CONTROLLED SUBSTANCES*

***SEC. 1701. SHORT TITLE.***

*This title may be cited as the ''Methamphetamine Anti-Proliferation Act of 2000''.*

### *Subtitle A—Methamphetamine Production, Trafficking, and Abuse*

### *CHAPTER 1—CRIMINAL PENALTIES*

***SEC. 1711. ENHANCED PUNISHMENT OF AMPHETAMINE LABORATORY OPERATORS.***

*(a) AMENDMENT TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any offense relating to the manufacture, importation, exportation, or trafficking in amphetamine (including an attempt or conspiracy to do any of the foregoing) in violation of—*

*(1) the Controlled Substances Act (21 U.S.C. 801 et seq.);*

*(2) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or*

*(3) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).*

*(b) GENERAL REQUIREMENT.—In carrying out this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) relating to amphetamine—*

*(1) review and amend its guidelines to provide for increased penalties such that those penalties are comparable to the base offense level for methamphetamine; and*

*(2) take any other action the Commission considers necessary to carry out this subsection.*

*(c) ADDITIONAL REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenders convicted of offenses described in subsection (a) reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving amphetamines, including—*

*(1) the rapidly growing incidence of amphetamine abuse and the threat to public safety that such abuse poses;*

*(2) the high risk of amphetamine addiction;*

*(3) the increased risk of violence associated with amphetamine trafficking and abuse; and*

*(4) the recent increase in the illegal importation of amphetamine and precursor chemicals.*

*(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.*

***SEC. 1712. ENHANCED PUNISHMENT OF AMPHETAMINE OR METHAMPHETAMINE LABORATORY OPERATORS.***

*(a) FEDERAL SENTENCING GUIDELINES.—*

*(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with paragraph (2) with respect to any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of—*

*(A) the Controlled Substances Act (21 U.S.C. 801 et seq.);*

*(B) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or*

*(C) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).*

*(2) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall—*

*(A) if the offense created a substantial risk of harm to human life (other than a life described in subparagraph (B)) or the environment, increase the base offense level for the offense—*

*(i) by not less than 3 offense levels above the applicable level in effect on the date of the enactment of this Act; or*

*(ii) if the resulting base offense level after an increase under clause (i) would be less than level 27, to not less than level 27; or*

*(B) if the offense created a substantial risk of harm to the life of a minor or incompetent, increase the base offense level for the offense—*

*(i) by not less than 6 offense levels above the applicable level in effect on the date of the enactment of this Act; or*

*(ii) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.*

*(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this subsection as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.*

*(b) EFFECTIVE DATE.—The amendments made pursuant to this section shall apply with respect to any offense occurring on or after the date that is 60 days after the date of enactment of this Act.*

***SEC. 1713. MANDATORY RESTITUTION FOR VIOLATIONS OF CONTROLLED SUBSTANCES ACT AND CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO AMPHETAMINE AND METHAMPHETAMINE.***

*(a) MANDATORY RESTITUTION.—Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended—*

*(1) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall'';*

*(2) by inserting ''amphetamine or'' before ''methamphetamine'' each place it appears;*

*(3) in paragraph (2)—*

*(A) by inserting '', the State or local government concerned, or both the United States and the State or local government concerned'' after ''United States'' the first place it appears; and*

*(B) by inserting ''or the State or local government concerned, as the case may be,'' after ''United States'' the second place it appears; and*

*(4) in paragraph (3), by striking ''section 3663 of title 18, United States Code'' and inserting ''section 3663A of title 18, United States Code''.*

*(b) DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—*

*(1) by striking ''and'' at the end of subparagraph (B);*

*(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and*

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

*''(D) all amounts collected—*

*''(i) by the United States pursuant to a reimbursement order under paragraph (2) of section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)); and*

*''(ii) pursuant to a restitution order under paragraph (1) or (3) of section 413(q) of the Controlled Substances Act for injuries to the United States.''.*

*(c) CLARIFICATION OF CERTAIN ORDERS OF RESTITUTION.—Section 3663(c)(2)(B) of title 18, United States Code, is amended by inserting ''which may be'' after ''the fine''.*

*(d) EXPANSION OF APPLICABILITY OF MANDATORY RESTITUTION.—Section 3663A(c)(1)(A)(ii) of title 18, United States Code, is amended by inserting ''or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)),'' after ''under this title,''.*

*(e) TREATMENT OF ILLICIT SUBSTANCE MANUFACTURING OPERATIONS AS CRIMES AGAINST PROPERTY.—Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:*

*''(c) A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18, United States Code.''.*

***SEC. 1714. METHAMPHETAMINE PARAPHERNALIA.***

*Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended in the matter preceding paragraph (1) by inserting ''methamphetamine,'' after ''PCP,''.*

## *CHAPTER 2—ENHANCED LAW ENFORCEMENT*

***SEC. 1721. ENVIRONMENTAL HAZARDS ASSOCIATED WITH ILLEGAL MANUFACTURE OF AMPHETAMINE AND METHAMPHETAMINE.***

*(a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(1)(E) of title 28, United States Code, is amended—*

*(1) by inserting ''(i) for'' before ''disbursements'';*

*(2) by inserting ''and'' after the semicolon; and*

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

*''(ii) for payment for—*

*''(I) costs incurred by or on behalf of the Department of Justice in connection with the removal, for purposes of Federal forfeiture and disposition, of any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine; and*

*''(II) costs incurred by or on behalf of a State or local government in connection with such removal in any case in which such State or local government has assisted in a Federal prosecution relating to amphetamine or methamphetamine, to the extent such costs exceed equitable sharing payments made to such State or local government in such case;''.*

*(b) GRANTS UNDER DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before the semicolon the following: ''and to remove any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine''.*

*(c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.—*

*(1) ASSETS FORFEITURE FUND.—Any amounts made available from the Department of Justice Assets Forfeiture Fund in a fiscal year by reason of the amendment made by subsection (a) shall supplement, and not supplant, any other amounts made available to the Department of Justice in such fiscal year from other sources for payment of costs described in section 524(c)(1)(E)(ii) of title 28, United States Code, as so amended.*

*(2) GRANT PROGRAM.—Any amounts made available in a fiscal year under the grant program under section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 for the removal of hazardous substances or pollutants or contaminants associated with the illegal manufacture of amphetamine or methamphetamine by reason of the amendment made by subsection (b) shall supplement, and not supplant, any other amounts made available in such fiscal year from other sources for such removal.*

***SEC. 1722. REDUCTION IN RETAIL SALES TRANSACTION THRESHOLD FOR NON-SAFE HARBOR PRODUCTS CONTAINING PSEUDOEPHEDRINE OR PHENLYPROPANOLAMINE.***

*(a) REDUCTION IN TRANSACTION THRESHOLD.—Section 102(39)(A)(iv)(II) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)(II) is amended—*

*(1) by striking ''24 grams'' both places it appears and inserting ''9 grams''; and*

*(2) by inserting before the semicolon at the end the following: ''and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base''.*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.*

***SEC. 1723. TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES.***

*(a) IN GENERAL.—*

*(1) REQUIREMENT.—The Administrator of the Drug Enforcement Administration shall carry out the programs described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.*

*(2) DURATION.—The duration of any program under that subsection may not exceed 3 years.*

*(b) COVERED PROGRAMS.—The programs described in this subsection are as follows:*

*(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.—A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.*

*(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.—A program of basic clandestine laboratory certification training, which shall provide information and training—*

*(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and*

*(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.*

*(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.—A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling*

*such personnel to provide recertification and awareness training relating to clandestine laboratories to additional State and local law enforcement personnel.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:*

*(1) $1,500,000 to carry out the program described in subsection (b)(1).*

*(2) $3,000,000 to carry out the program described in subsection (b)(2).*

*(3) $1,000,000 to carry out the program described in subsection (b)(3).*

***SEC. 1724. COMBATING METHAMPHETAMINE AND AMPHETAMINE IN HIGH INTENSITY DRUG TRAFFICKING AREAS.***

*(a) IN GENERAL.—*

*(1) IN GENERAL.—The Director of National Drug Control Policy shall use amounts available under this section to combat the trafficking of methamphetamine and amphetamine in areas designated by the Director as high intensity drug trafficking areas.*

*(2) ACTIVITIES.—In meeting the requirement in paragraph (1), the Director shall provide funds for—*

*(A) employing additional Federal law enforcement personnel, or facilitating the employment of additional State and local law enforcement personnel, including agents, investigators, prosecutors, laboratory technicians, chemists, investigative assistants, and drug-prevention specialists; and*

*(B) such other activities as the Director considers appropriate.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—*

*(1) $15,000,000 for fiscal year 2000; and*

*(2) such sums as may be necessary for each of fiscal years 2001 through 2004.*

*(c) APPORTIONMENT OF FUNDS.—*

*(1) FACTORS IN APPORTIONMENT.—The Director shall apportion amounts appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (b) for activities under subsection (a) among and within areas designated by the Director as high intensity drug trafficking areas based on the following factors:*

*(A) The number of methamphetamine manufacturing facilities and amphetamine manufacturing facilities discovered by Federal, State, or local law enforcement officials in the previous fiscal year.*

*(B) The number of methamphetamine prosecutions and amphetamine prosecutions in Federal, State, or local courts in the previous fiscal year.*

*(C) The number of methamphetamine arrests and amphetamine arrests by Federal, State, or local law enforcement officials in the previous fiscal year.*

*(D) The amounts of methamphetamine, amphetamine, or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by Federal, State, or local law enforcement officials in the previous fiscal year.*

*(E) Intelligence and predictive data from the Drug Enforcement Administration and the Department of Health and Human Services showing patterns and trends in abuse, trafficking, and transportation in methamphetamine, amphetamine, and listed chemicals (as that term is so defined).*

*(2) CERTIFICATION.—Before the Director apportions any funds under this subsection to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities responsible for clandestine methamphetamine and amphetamine laboratory seizures in that area are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.*

*(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated in a fiscal year pursuant to the authorization of appropriations for that fiscal year in subsection (b) may be available in that fiscal year for administrative costs associated with activities under subsection (a).*

***SEC. 1725. COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING.***

*(a) ACTIVITIES.—In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may—*

*(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;*

*(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;*

*(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;*

*(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;*

*(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237);*

*(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;*

*(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTRANS) of the Administration;*

*(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and*

*(9) carry out such other activities as the Administrator considers appropriate.*

*(b) ADDITIONAL POSITIONS AND PERSONNEL.—*

*(1) IN GENERAL.—In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.*

*(2) PARTICULAR POSITIONS.—In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Drug Enforcement Administration for each fiscal year after fiscal year 1999, $9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which $3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and employing personnel in positions established under subsection (b)(2).*

***CHAPTER 3—ABUSE PREVENTION AND TREATMENT***

***SEC. 1731. EXPANSION OF METHAMPHETAMINE RESEARCH.***

*Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by adding at the end the following:*

*''(c) METHAMPHETAMINE RESEARCH.—*

*''(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and on-going interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to methamphetamine abuse and addiction and other biomedical, behavioral, and social issues related to methamphetamine abuse and addiction.*

*''(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for methamphetamine abuse and addiction may be used for research and clinical trials relating to—*

*''(A) the effects of methamphetamine abuse on the human body, including the brain;*

*''(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;*

*''(C) the connection between methamphetamine abuse and mental health;*

*''(D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;*

*''(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;*

*''(F) risk factors for methamphetamine abuse;*

*''(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses; and*

*''(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.*

*''(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.*

*''(4) AUTHORIZATION OF APPROPRIATIONS.—*

*''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), such sums as may be necessary for each fiscal year.*

*''(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on methamphetamine abuse and addiction.''.*

***SEC. 1732. METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE BY CENTER FOR SUBSTANCE ABUSE TREATMENT.***

*Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by adding at the end the following new section:*

*''METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE*

*''SEC. 514. (a) GRANTS.—*

*''(1) AUTHORITY TO MAKE GRANTS.—The Director of the Center for Substance Abuse Treatment may make grants to States and Indian tribes recognized by the United States that have a high rate, or have had a rapid increase, in methamphetamine or amphetamine abuse or addiction in order to permit such States and Indian tribes to expand activities in connection with the treatment of methamphetamine or amphetamine abuser or addiction in the specific geographical areas of such States or Indian tribes, as the case may be, where there is such a rate or has been such an increase.*

*''(2) RECIPIENTS.—Any grants under paragraph (1) shall be directed to the substance abuse*

*directors of the States, and of the appropriate tribal government authorities of the Indian tribes, selected by the Director to receive such grants.*

*''(3) NATURE OF ACTIVITIES.—Any activities under a grant under paragraph (1) shall be based on reliable scientific evidence of their efficacy in the treatment of methamphetamine or amphetamine abuse or addiction.*

*''(b) GEOGRAPHIC DISTRIBUTION.—The Director shall ensure that grants under subsection (a) are distributed equitably among the various regions of the country and among rural, urban, and suburban areas that are affected by methamphetamine or amphetamine abuse or addiction.*

*''(c) ADDITIONAL ACTIVITIES.—The Director shall—*

*''(1) evaluate the activities supported by grants under subsection (a);*

*''(2) disseminate widely such significant information derived from the evaluation as the Director considers appropriate to assist States, Indian tribes, and private providers of treatment services for methamphetamine or amphetamine abuser or addiction in the treatment of methamphetamine or amphetamine abuse or addiction; and*

*''(3) provide States, Indian tribes, and such providers with technical assistance in connection with the provision of such treatment.*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—*

*''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2000 and such sums as may be necessary for each of fiscal years 2001 and 2002.*

*''(2) USE OF CERTAIN FUNDS.—Of the funds appropriated to carry out this section in any fiscal year, the lesser of 5 percent of such funds or $1,000,000 shall be available to the Director for purposes of carrying out subsection (c).''.*

***SEC. 1733. EXPANSION OF METHAMPHETAMINE ABUSE PREVENTION EFFORTS.***

*(a) EXPANSION OF EFFORTS.—Section 515 of the Public Health Service Act (42 U.S.C. 290bb–21) is amended by adding at the end the following:*

*''(e)(1) The Administrator may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities to enable such entities—*

*''(A) to carry out school-based programs concerning the dangers of abuse of and addiction to methamphetamine and other illicit drugs, using methods that are effective and science-based, including initiatives that give students the responsibility to create their own anti-drug abuse education programs for their schools; and*

*''(B) to carry out community-based abuse and addiction prevention programs relating to methamphetamine and other illicit drugs that are effective and science-based.*

*''(2) Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used for planning, establishing, or administering prevention programs relating to methamphetamine and other illicit drugs in accordance with paragraph (3).*

*''(3)(A) Amounts provided under this subsection may be used—*

*''(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start abuse of methamphetamine and other illicit drugs;*

*''(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for abuse of and addiction to methamphetamine and other illicit drugs;*

*''(iii) to assist local government entities to conduct appropriate prevention activities relating to methamphetamine and other illicit drugs;*

*''(iv) to train and educate State and local law enforcement officials, prevention and education officials, members of community anti-drug coalitions and parents on the signs of abuse of and addiction to methamphetamine and other illicit drugs, and the options for treatment and prevention;*

*''(v) for planning, administration, and educational activities related to the prevention of abuse of and addiction to methamphetamine and other illicit drugs;*

*''(vi) for the monitoring and evaluation of prevention activities relating to methamphetamine and other illicit drugs, and reporting and disseminating resulting information to the public; and*

*''(vii) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.*

*''(B) The Administrator shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.*

*''(4)(A) Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Administrator, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for abuse of and addiction to methamphetamine and other illicit drugs and the development of appropriate strategies for disseminating information about and implementing these programs.*

*''(B) The Administrator shall submit to the committees of Congress referred to in subparagraph (C) an annual report with the results of the analyses and evaluation under subparagraph (A).*

*''(C) The committees of Congress referred to in this subparagraph are the following:*

*''(i) The Committees on Health, Education, Labor, and Pensions, the Judiciary, and Appropriations of the Senate.*

*''(ii) The Committees on Commerce, the Judiciary, and Appropriations of the House of Representatives.''.*

*(b) AUTHORIZATION OF APPROPRIATIONS FOR EXPANSION OF ABUSE PREVENTION EFFORTS AND PRACTITIONER REGISTRATION REQUIREMENTS.—There is authorized to be appropriated to carry out section 515(e) of the Public Health Service Act (as added by subsection (a)) and section 303(g)(2) of the Controlled Substances Act (as added by section 18(a) of this Act), $15,000,000 for fiscal year 2000, and such sums as may be necessary for each succeeding fiscal year.*

***SEC. 1734. STUDY OF METHAMPHETAMINE TREATMENT.***

*(a) STUDY.—*

*(1) REQUIREMENT.—The Secretary of Health and Human Services shall, in consultation with the Institute of Medicine of the National Academy of Sciences, conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.*

*(2) REPORT.—Not later than nine months after the date of the enactment of this Act, the Secretary shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the study conducted under paragraph (1).*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for the Department of Health and Human Services for fiscal year 2000 such sums as may be necessary to meet the requirements of subsection (a).*

## *CHAPTER 4—REPORTS*

***SEC. 1741. REPORTS ON CONSUMPTION OF METHAMPHETAMINE AND OTHER ILLICIT DRUGS IN RURAL AREAS, METROPOLITAN AREAS, AND CONSOLIDATED METROPOLITAN AREAS.***

*The Secretary of Health and Human Services shall include in each National Household Survey on Drug Abuse appropriate prevalence data and information on the consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.*

***SEC. 1742. REPORT ON DIVERSION OF ORDINARY OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS.***

*(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:*

*(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.*

*(2) Information submitted voluntarily from the pharmaceutical and retail industries involved in the manufacture, distribution, and sale of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, including information on changes in the pattern, volume, or both, of sales of ordinary over-the-counter pseudoephedrine and phenylpropanolamine products.*

*(b) REPORT.—*

*(1) REQUIREMENT.—Not later than April 1, 2001, the Attorney General shall submit to Congress a report on the study conducted under subsection (a).*

*(2) ELEMENTS.—The report shall include—*

*(A) the findings of the Attorney General as a result of the study; and*

*(B) such recommendations on the need to establish additional measures to prevent diversion of ordinary over-the-counter pseudoephedrine and phenylpropanolamine (such as a threshold on ordinary over-the-counter pseudoephedrine and phenylpropanolamine products) as the Attorney General considers appropriate.*

*(3) MATTERS CONSIDERED.—In preparing the report, the Attorney General shall consider the comments and recommendations of State and local law enforcement and regulatory officials and of representatives of the industry described in subsection (a)(2).*

## ***Subtitle B—Controlled Substances Generally***

## ***CHAPTER 1—CRIMINAL MATTERS***

***SEC. 1751. ENHANCED PUNISHMENT FOR TRAFFICKING IN LIST I CHEMICALS.***

*(a) AMENDMENTS TO FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any violation of paragraph (1) or (2) of section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) involving a list I chemical and any violation of paragraph (1) or (3) of section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) involving a list I chemical.*

*(b) EPHEDRINE, PHENYLPROPANOLAMINE, AND PSEUDOEPHEDRINE.—*

*(1) IN GENERAL.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving ephedrine, phenylpropanolamine, or pseudoephedrine (including their salts, optical isomers, and salts of optical isomers), review and amend its guidelines to provide for increased penalties such that those penalties corresponded to the quantity of controlled substance that could reasonably have been manufactured using the quantity of ephedrine, phenylpropanolamine, or pseudoephedrine possessed or distributed.*

*(2) CONVERSION RATIOS.—For the purposes of the amendments made by this subsection, the quantity of controlled substance that could reasonably have been manufactured shall be determined by using a table of manufacturing conversion ratios for ephedrine, phenylpropanolamine, and pseudoephedrine, which table shall be established by the Sentencing Commission based on scientific, law enforcement, and other data*

*the Sentencing Commission considers appropriate.*

*(c) OTHER LIST I CHEMICALS.—In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving any list I chemical other than ephedrine, phenylpropanolamine, or pseudoephedrine, review and amend its guidelines to provide for increased penalties such that those penalties reflect the dangerous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine and amphetamine, including—*

*(1) the rapidly growing incidence of controlled substance manufacturing;*

*(2) the extreme danger inherent in manufacturing controlled substances;*

*(3) the threat to public safety posed by manufacturing controlled substances; and*

*(4) the recent increase in the importation, possession, and distribution of list I chemicals for the purpose of manufacturing controlled substances.*

*(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired.*

***SEC. 1752. MAIL ORDER REQUIREMENTS.***

*Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended—*

*(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;*

*(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):*

*''(A) As used in this paragraph:*

*''(i) The term 'drug product' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act for distribution in the United States.*

*''(ii) The term 'valid prescription' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.'';*

*(3) in subparagraph (B), as so redesignated, by inserting ''or who engages in an export transaction'' after ''nonregulated person''; and*

*(4) adding at the end the following:*

*''(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):*

*''(i) Distributions of sample packages of drug products when such packages contain not more than 2 solid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day period.*

*''(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 102(46).*

*''(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.*

*''(iv) Distributions of drug products pursuant to a valid prescription.*

*''(v) Exports which have been reported to the Attorney General pursuant to section 1004 or 1018 or which are subject to a waiver granted under section 1018(e)(2).*

*''(vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this title or title III.*

*''(E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this title or title III. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 1018(c)(1), and shall have the right to an expedited hearing as provided in section 1018(c)(2).''.*

***SEC. 1753. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.***

*Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—*

*(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and*

*(2) in subsection (b), by striking ''one year'' and inserting ''5 years''.*

***SEC. 1754. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.***

*Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—*

*(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and*

*(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''5 years''.*

***SEC. 1755. ADVERTISEMENTS FOR DRUG PARAPHERNALIA AND SCHEDULE I CONTROLLED SUBSTANCES.***

*(a) DRUG PARAPHERNALIA.—Subsection (a)(1) of section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by inserting '', directly or indirectly advertise for sale,'' after ''sell''.*

*(b) DIRECTLY OR INDIRECTLY ADVERTISE FOR SALE DEFINED.—Such section 422 is further amended by adding at the end the following new subsection:*

*''(g) In this section, the term 'directly or indirectly advertise for sale' means the use of any communication facility (as that term is defined in section 403(b)) to post, publicize, transmit, publish, link to, broadcast, or otherwise advertise any matter (including a telephone number or electronic or mail address) with the intent to facilitate or promote a transaction in.''.*

*(c) SCHEDULE I CONTROLLED SUBSTANCES.—Section 403(c) of such Act (21 U.S.C. 843(c)) is amended—*

*(1) by inserting ''(1)'' after ''(c)''; and*

*(2) in paragraph (1), as so designated—*

*(A) in the first sentence, by inserting before the period the following: '', or to directly or indirectly advertise for sale (as that term is defined in section 422(g)) any Schedule I controlled substance''; and*

*(B) in the second sentence, by striking ''term 'advertisement' '' and inserting ''term 'written advertisement' ''.*

***SEC. 1756. THEFT AND TRANSPORTATION OF ANHYDROUS AMMONIA FOR PURPOSES OF ILLICIT PRODUCTION OF CONTROLLED SUBSTANCES.***

*(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:*

*''ANHYDROUS AMMONIA*

*''SEC. 423. (a) It is unlawful for any person—*

*''(1) to steal anhydrous ammonia, or*

*''(2) to transport stolen anhydrous ammonia across State lines,*

*knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.*

*''(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 403(d) as if such violation were a violation of a provision of section 403.''.*

*(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 421 the following new items:*

*''Sec. 422. Drug paraphernalia.*

*''Sec. 423. Anhydrous ammonia.''.*

*(c) ASSISTANCE FOR CERTAIN RESEARCH.—*

*(1) AGREEMENT.—The Administrator of the Drug Enforcement Administration shall seek to enter into an agreement with Iowa State University in order to permit the University to continue and expand its current research into the development of inert agents that, when added to anhydrous ammonia, eliminate the usefulness of anhydrous ammonia as an ingredient in the production of methamphetamine.*

*(2) REIMBURSABLE PROVISION OF FUNDS.—The agreement under paragraph (1) may provide for the provision to Iowa State University, on a reimbursable basis, of $500,000 for purposes the activities specified in that paragraph.*

*(3) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Drug Enforcement Administration for fiscal year 2000, $500,000 for purposes of carrying out the agreement under this subsection.*

***SEC. 1757. CRIMINAL PROHIBITION ON DISTRIBUTION OF CERTAIN INFORMATION RELATING TO THE MANUFACTURE OF CONTROLLED SUBSTANCES.***

*(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 21 the following new chapter:*

***"CHAPTER 22—CONTROLLED SUBSTANCES***

*''Sec.*

*''421. Distribution of information relating to manufacture of controlled substances.*

***"§ 421. Distribution of information relating to manufacture of controlled substances***

*''(a) PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO MANUFACTURE OF CONTROLLED SUBSTANCES.—*

*''(1) CONTROLLED SUBSTANCE DEFINED.—In this subsection, the term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).*

*''(2) PROHIBITION.—It shall be unlawful for any person—*

*''(A) to teach or demonstrate the manufacture of a controlled substance, or to distribute by any means information pertaining to, in whole or in part, the manufacture of a controlled substance, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime; or*

*''(B) to teach or demonstrate to any person the manufacture of a controlled substance, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture of a controlled substance, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime.*

*''(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned not more than 10 years, or both.''.*

*(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 21 the following new item:*

***"22. Controlled Substances ..... 421".***

**CHAPTER 2—OTHER MATTERS**

**SEC. 1761. WAIVER AUTHORITY FOR PHYSICIANS WHO DISPENSE OR PRESCRIBE CERTAIN NARCOTIC DRUGS FOR MAINTENANCE TREATMENT OR DETOXIFICATION TREATMENT.**

*(a) REQUIREMENTS.—Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—*

*(1) in paragraph (2), by striking ''(A) security'' and inserting ''(i) security'', and by striking ''(B) the maintenance'' and inserting ''(ii) the maintenance'';*

*(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;*

*(3) by inserting ''(1)'' after ''(g)'';*

*(4) by striking ''Practitioners who dispense'' and inserting ''Except as provided in paragraph (2), practitioners who dispense and prescribe''; and*

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

*''(2)(A) Subject to subparagraphs (D), the requirements of paragraph (1) are waived in the case of the dispensing or prescribing, by a physician, of narcotic drugs in schedule III, IV, or V, or combinations of such drugs, if the physician meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).*

*''(B)(i) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a physician are that, before dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment, the physician submit to the Secretary and the Attorney General a notification of the intent of the physician to begin dispensing or prescribing the drugs or combinations for such purpose, and that the notification to the Secretary also contain the following certifications by the physician:*

*''(I) The physician—*

*''(aa) is a physician licensed under State law; and*

*''(bb) has training or experience and the ability to treat and manage opiate-dependent patients.*

*''(II) With respect to patients to whom the physician will provide such drugs or combinations of drugs, the physician has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.*

*''(III) In any case in which the physician is not in a group practice, the total number of such patients of the physician at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number.*

*''(IV) In any case in which the physician is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this subclause, the applicable number is 20, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of physicians in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.*

*''(ii)(I) The Secretary may, in consultation with the Administrator of the Drug Enforcement Administration, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Center for Substance Abuse Treatment, the Director of the National Institute on Drug Abuse, and the Commissioner of Food and Drugs, issue regulations through notice and comment rulemaking or practice guidelines to implement this paragraph. The regulations or practice guidelines shall address the following:*

*''(aa) Approval of additional credentialing bodies and the responsibilities of credentialing bodies.*

*''(bb) Additional exemptions from the requirements of this paragraph and any regulations under this paragraph.*

*''(II) Nothing in the regulations or practice guidelines under this clause may authorize any Federal official or employee to exercise supervision or control over the practice of medicine or the manner in which medical services are provided.*

*''(III)(aa) The Secretary shall issue a Treatment Improvement Protocol containing best practice guidelines for the treatment and maintenance of opiate-dependent patients. The Secretary shall develop the protocol in consultation with the Director of the National Institute on Drug Abuse, the Director of the Center for Substance Abuse Treatment, the Administrator of the Drug Enforcement Administration, the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration, and other substance abuse disorder professionals. The protocol shall be guided by science.*

*''(bb) The protocol shall be issued not later than 120 days after the date of the enactment of the Methamphetamine Anti-Proliferation Act of 2000.*

*''(IV) For purposes of the regulations or practice guidelines under subclause (I), a physician shall have training or experience under clause (i)(I)(bb) if the physician meets one or more of the following conditions:*

*''(aa) The physician is certified in addiction treatment by the American Society of Addiction Medicine, the American Board of Medical Specialties, the American Osteopathic Academy of Addiction Medicine, or any other certified body accredited by the Secretary.*

*''(bb) The physician has been a clinical investigator in a clinical trial conducted for purposes of securing approval under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) of a narcotic drug in schedule III, IV, or V for the treatment of addiction, if such approval was granted.*

*''(cc) The physician has completed training (through classroom situations, seminars, professional society meetings, electronic communications, or otherwise) provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Osteopathic Academy of Addiction Medicine, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Secretary determines appropriate for purposes of this item. The curricula may include training in patient need for counseling regarding HIV, Hepatitis C, and other infectious diseases, substance abuse counseling, random drug testing, medical evaluation, annual assessment, prenatal care, diagnosis of addiction, rehabilitation services, confidentiality, and other appropriate topics.*

*''(dd) The physician has training or experience in the treatment and management of opiate-dependent, which training or experience shall meet such criteria as the Secretary may prescribe. Any such criteria shall be effective for a period of three years after the effective date of such criteria, but the Secretary may extend the effective period of such criteria by additional periods of three years for each extension if the Secretary determines that such extension is appropriate for purposes of this item. Any such extension shall go into effect only if the Secretary publishes a notice of such extension in the Federal Register during the 30-day period ending on the date of the end of the three-year effective period of such criteria to which such extension will apply.*

*''(ee) The physician is certified in addiction treatment by a State medical licensing board, or an entity accredited by such board, unless the Secretary determines (after an opportunity for a hearing) that the training provided by such board or entity was inadequate for the treatment and management of opiate-dependent patients.*

*''(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are as follows:*

*''(i) The drugs or combinations of drugs have, under the Federal Food, Drug and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.*

*''(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that experience since the approval of the drug or combinations of drugs has shown that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of physicians to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.*

*''(D)(i) A waiver under subparagraph (A) with respect to a physician is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:*

*''(I) The notification under subparagraph (B) is in writing and states the name of the physician.*

*''(II) The notification identifies the registration issued for the physician pursuant to subsection (f).*

*''(III) If the physician is a member of a group practice, the notification states the names of the other physicians in the practice and identifies the registrations issued for the other physicians pursuant to subsection (f).*

*''(IV) A period of 45 days has elapsed after the date on which the notification was submitted, and during such period the physician does not receive from the Secretary a written notice that one or more of the conditions specified in subparagraph (B), subparagraph (C), or this subparagraph, have not been met.*

*''(ii) The Secretary shall provide to the Attorney General such information contained in notifications under subparagraph (B) as the Attorney General may request.*

*''(E) If in violation of subparagraph (A) a physician dispenses or prescribes narcotic drugs in schedule III, IV, or V, or combinations of such drugs, for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the physician to have committed an act that renders the registration of the physician pursuant to subsection (f) to be inconsistent with the public interest.*

*''(F)(i) Upon determining that a physician meets the conditions specified in subparagraph (B), the Secretary shall notify the physician and the Attorney General.*

*''(ii) Upon receiving notice with respect to a physician under clause (i), the Attorney General shall assign the physician an identification number under this paragraph for inclusion with the physician's current registration to prescribe narcotics. An identification number assigned a physician under this clause shall be appropriate to preserve the confidentiality of a patient prescribed narcotic drugs covered by this paragraph by the physician.*

*''(iii) If the Secretary fails to make a determination described in clause (i) by the end of the 45-day period beginning on the date of the receipt by the Secretary of a notification from a physician under subparagraph (B), the Attorney General shall assign the physician an identification number described in clause (ii) at the end of such period.*

''(G) In this paragraph:

''(i) The term 'group practice' has the meaning given such term in section 1877(h)(4) of the Social Security Act.

''(ii) The term 'physician' has the meaning given such term in section 1861(r) of the Social Security Act.

''(H)(i) This paragraph takes effect on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 2000, and remains in effect thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).

''(ii) For the purposes relating to clause (iii), the Secretary and the Attorney General shall, during the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 2000, make determinations in accordance with the following:

''(I)(aa) The Secretary shall—

''(aaa) make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings;

''(bbb) make a determination regarding whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and

''(ccc) make a determination regarding whether such waivers have adverse consequences for the public health.

''(bb) In making determinations under this subclause, the Secretary—

''(aaa) may collect data from the practitioners for whom waivers under subparagraph (A) are in effect;

''(bbb) shall issue appropriate guidelines or regulations (in accordance with procedures for substantive rules under section 553 of title 5, United States Code) specifying the scope of the data that will be required to be provided under this subclause and the means through which the data will be collected; and

''(ccc) shall, with respect to collecting such data, comply with applicable provisions of chapter 6 of title 5, United States Code (relating to a regulatory flexibility analysis), and of chapter 8 of such title (relating to congressional review of agency rulemaking).

''(II) The Attorney General shall—

''(aa) make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment; and

''(bb) make a determination regarding whether waivers under subparagraph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule III, IV, or V, or combinations of such drugs, are being dispensed or prescribed, or possessed, in violation of this Act.

''(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that this paragraph should not remain in effect, this paragraph ceases to be in effect 60 days after the date on which the decision is so published. The Secretary shall, in making any such decision, consult with the Attorney General, and shall, in publishing the decision in the Federal Register, include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall, in making any such decision, consult with the Secretary, and shall, in publishing the decision in the Federal Register, include any comments received from the Secretary for inclusion in the publication.

''(I) During the 3-year period beginning on the date of the enactment of the Methamphetamine Anti-Proliferation Act of 2000, a State may not preclude a practitioner from dispensing or prescribing narcotic drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment in accordance with this paragraph, or the other amendments made by section 22 of that Act, unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing or prescribing such drugs or combination of drugs.''.

(b) CONFORMING AMENDMENTS.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a), in the matter following paragraph (5), by striking ''section 303(g)'' each place the term appears and inserting ''section 303(g)(1)''; and

(2) in subsection (d), by striking ''section 303(g)'' and inserting ''section 303(g)(1)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for purposes of activities under section 303(g)(2) of the Controlled Substances Act, as added by subsection (a), amounts as follows:

(1) For fiscal year 2000, $3,000,000.

(2) For each fiscal year after fiscal year 2000, such sums as may be necessary for such fiscal year.

### Subtitle C—Cocaine Powder

**SEC. 1771. SHORT TITLE.**

This subtitle may be cited as the ''Powder Cocaine Sentencing Act of 2000''.

**SEC. 1772. SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.**

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(b) AMENDMENT OF CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(1) LARGE QUANTITIES.—Section 1010(b)(1)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(B)) is amended by striking ''5 kilograms'' and inserting ''500 grams''.

(2) SMALL QUANTITIES.—Section 1010(b)(2)(B) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)(B)) is amended by striking ''500 grams'' and inserting ''50 grams''.

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by this section.

### Subtitle D—Education Matters

**SEC. 1781. SAFE SCHOOLS.**

(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:

(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.

(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.

(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semicolon, and by adding new subparagraphs (B), (C), and (D) as follows:

''(B) the term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law; and

''(C) the term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)', before the period.

''(D) the term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—

''(i) possession of which quantity would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or

''(ii) that is possessed with an intent to distribute.''.

(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.

(5) REPEALER.—Section 14601 is amended by striking subsection (f).

(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.

(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.

(b) COMPLIANCE DATE; REPORTING.—(1) States shall have 2 years from the date of the enactment of this Act to comply with the requirements established in the amendments made by subsection (a).

(2) Not later than 3 years after the date of the enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this section.

(3) Not later than 2 years after the date of the enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.

**SEC. 1782. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

**''SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.**

''(a) IN GENERAL.—Notwithstanding any other provision of law, if a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part or under any other Federal education program to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a

*religious school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.*

*''(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—*

*''(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;*

*''(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—*

*''(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and*

*''(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and*

*''(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a religious school, the costs of tuition, required fees, and the reasonable costs of such transportation.*

*''(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private, including religious, elementary school or secondary school that a child of the parent will attend within the State.*

*''(d) CONSIDERATION OF ASSISTANCE.—Subject to subsection (h), assistance made available under this section that is used to pay the costs for a student to attend a private or religious school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private or religious school as a result of assistance received under this section.*

*''(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).*

*''(f) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.*

*''(g) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis race, color, or national origin.*

*''(h) ASSISTANCE; TAXES AND OTHER FEDERAL PROGRAMS.—*

*''(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.*

*''(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.*

*''(i) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).*

*''(j) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.''.*

***SEC. 1783. TRANSFER OF REVENUES.***

*(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a religious school.*

*(b) DEFINITIONS.—For the purpose of subsection (a), the terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).*

***Subtitle E—Miscellaneous***

***SEC. 1791. NOTICE; CLARIFICATION.***

*(a) NOTICE OF ISSUANCE.—Section 3103a of title 18, United States Code, is amended by adding at the end the following new sentence: ''With respect to any issuance under this section or any other provision of law (including section 3117 and any rule), any notice required, or that may be required, to be given may be delayed pursuant to the standards, terms, and conditions set forth in section 2705, unless otherwise expressly provided by statute.''.*

*(b) CLARIFICATION.—(1) Section 2(e) of Public Law 95–78 (91 Stat. 320) is amended by adding at the end the following:*

*''Subdivision (d) of such rule, as in effect on this date, is amended by inserting 'tangible' before 'property' each place it occurs.''.*

*(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.*

***SEC. 1792. DOMESTIC TERRORISM ASSESSMENT AND RECOVERY.***

*(a) IN GENERAL.—The Federal Bureau of Investigation shall prepare a study assessing—*

*(1) the threat posed by the Fuerzas Armadas de Liberacion Nacional Puertorriquena (FALN) and Los Macheteros terrorist organizations to the United States and its territories as of July 31, 1999; and*

*(2) what effect the President's offer of clemency to 16 FALN and Los Macheteros members on August 11, 1999, and the subsequent release of 11 of those members, will have on the threat posed by those terrorist organizations to the United States and its territories.*

*(b) ISSUES EXAMINED.—In conducting and preparing the study under subsection (a), the Federal Bureau of Investigation shall address—*

*(1) the threat posed by the FALN and Los Macheteros organizations to law enforcement officers, prosecutors, defense attorneys, witnesses, and judges involved in the prosecution of members of the FALN and Los Macheteros, both in the United States and its territories;*

*(2) the roles played by each the 16 members offered clemency by the President on August 11, 1999, in the FALN and Los Macheteros organizations;*

*(3) the extent to which the FALN and Los Macheteros organizations are associated with other known terrorist organizations or countries suspected of sponsoring terrorism;*

*(4) the threat posed to the national security interests of the United States by the FALN and Los Macheteros organizations;*

*(5) whether the offer of clemency to, or release of, any of the 16 FALN or Los Macheteros members would violate, or be inconsistent with, the United States' obligations under international treaties and agreements governing terrorist activity; and*

*(6) the effect on law enforcement's ability to solve open cases and apprehend fugitives resulting from the offer of clemency to the 16 FALN and Los Macheteros members, without first requiring each of them to provide the government all truthful information and evidence he or she has concerning open investigations and fugitives associated with the FALN and Los Macheteros organizations.*

*(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Federal Bureau of Investigation shall submit to Congress a report on the study conducted under subsection (a).*

***SEC. 1793. ANTIDRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET WEBSITES.***

*Not later than 90 days after the date of the enactment of this Act, the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place antidrug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.*

***SEC. 1794. STATE SCHOOLS.***

*(a) AMENDMENTS.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended as follows:*

*(1) SHORT TITLE.—Section 14601(a) is amended by replacing ''Gun-Free'' with ''Safe'', and ''1994'' with ''1999''.*

*(2) REQUIREMENTS.—Section 14601(b)(1) is amended by inserting after ''determined'' the following: ''to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or''.*

*(3) DEFINITIONS.—Section 14601(b)(4) is amended by replacing ''Definition'' with ''Definitions'' in the catchline, by replacing ''section'' in the matter under the catchline with ''part'', by redesignating the matter under the catchline after the comma as subparagraph (A), by replacing the period with a semicolon, and by adding new subparagraphs (B), (C), and (D) as follows:*

*''(B) The term 'illegal drug' means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under the Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not mean a controlled substance used pursuant to a valid prescription or as authorized by law.*

*''(C) The term 'illegal drug paraphernalia' means drug paraphernalia, as defined in section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)), except that the first sentence of that section shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)', before the period.*

*''(D) The term 'felonious quantities of an illegal drug' means any quantity of an illegal drug—*

*''(i) possession of which quantity would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute; or*

*''(ii) that is possessed with an intent to distribute.''.*

*(4) REPORT TO STATE.—Section 14601(d)(2)(C) is amended by inserting ''illegal drugs or'' before ''weapons''.*

*(5) REPEALER.—Section 14601 is amended by striking subsection (f).*

*(6) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—Section 14602(a) is amended by replacing ''served by'' with ''under the jurisdiction of'', and by inserting after ''who'' the following: ''is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, such agency, or who''.*

*(7) DATA AND POLICY DISSEMINATION UNDER IDEA.—Section 14603 is amended by inserting ''current'' before ''policy'', by striking ''in effect on October 20, 1994'', by striking all the matter after ''schools'' and inserting a period thereafter, and by inserting before ''engaging'' the following: ''possessing illegal drugs, or illegal drug paraphernalia, on school property, or in vehicles operated by employees or agents of, schools or local educational agencies, or''.*

*(b) COMPLIANCE DATE; REPORTING.—(1) States shall have 2 years from the date of enactment of this Act to comply with the requirements established in the amendments made by subsection (a).*

*(2) Not later than 3 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on any State that is not in compliance with the requirements of this part.*

*(3) Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report analyzing the strengths and weaknesses of approaches regarding the disciplining of children with disabilities.*

***SEC. 1795. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.***

*Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:*

***''SEC. 1115B. STUDENT SAFETY AND FAMILY SCHOOL CHOICE.***

*''(a) IN GENERAL.—Notwithstanding any other provision of law, if a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense, including drug-related violence, while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part or under any other Federal education program to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a religious school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.*

*''(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—*

*''(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;*

*''(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—*

*''(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and*

*''(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and*

*''(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a religious school, the costs of tuition, required fees, and the reasonable costs of such transportation.*

*''(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private, including religious, elementary school or secondary school that a child of the parent will attend within the State.*

*''(d) CONSIDERATION OF ASSISTANCE.—Subject to subsection (h), assistance made available under this section that is used to pay the costs for a student to attend a private or religious school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private or religious school as a result of assistance received under this section.*

*''(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).*

*''(f) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.*

*''(g) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.*

*''(h) ASSISTANCE; TAXES AND OTHER FEDERAL PROGRAMS.—*

*''(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.*

*''(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.*

*''(i) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).*

*''(j) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.''.*

***SEC. 1796. TRANSFER OF REVENUES.***

*(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a religious school.*

*(b) DEFINITIONS.—For the purpose of subsection (a), the terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).*

***SEC. 1797. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.***

*Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—*

*(1) in subsection (a), by strking ''one year'' and inserting ''3 years''; and*

*(2) in subsection (b), by striking ''one year'' and inserting ''5 years''.*

***SEC. 1798. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.***

*Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—*

*(1) in subsection (a), by striking ''one year'' and inserting ''3 years''; and*

*(2) in subsection (b), by striking ''three years'' each place that term appears and inserting ''5 years''.*

***SEC. 1799. SEVERABILITY.***

*Any provision of this title held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.*

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

***SEC. 1801. SHORT TITLE.***

*This title may be cited as the ''Emergency Imported Electric Power Price Reduction Act of 2000''.*

***SEC. 1802. FINDINGS AND PURPOSES.***

*(a) FINDINGS.—Congress finds that—*

*(1) the protection of the public health and welfare, the preservation of national security, and the regulation of interstate and foreign commerce require that electric power imported into the United States be priced fairly and competitively;*

*(2) the importation of electric power into the United States is a matter vested with the public interest that—*

*(A) involves an essential and extensively regulated infrastructure industry; and*

*(B) affects consumers, the cost of goods manufactured and services rendered, and the economic well-being and livelihood of individuals and society;*

*(3) it is essential that imported electric power be priced—*

*(A) in a manner that is competitive with domestic electric power and thereby contribute to robust and sound national and regional economies; and*

*(B) not at a rate that is so high as to result in the imminent bankruptcy of electric utilities in a State; and*

*(4) the purchase of imported electric power by the Vermont Joint Owners under the Firm Power and Energy Contract with Hydro-Quebec dated December 4, 1987—*

*(A) is not consistent with the findings stated in paragraphs (1), (2), and (3); and*

*(B) threatens the economic well-being of the States and regions in which the imported electric power is provided contrary to the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3).*

*(b) PURPOSES.—The purposes of this title are—*

*(1) to facilitate the public policy of the United States as set forth in the findings stated in paragraphs (1), (2), and (3) of subsection (a);*

*(2) to remove a serious threat to the economic well-being of the States and regions in which imported electric power is provided under the contract referred to in section 1802(a)(4); and*

*(3) to facilitate revisions to the price elements of the contract referred to in section 1802(a)(4) by declaring and making unlawful, effective 180 days after the date of enactment of this Act, the contract as it exists on the date of enactment of this Act.*

***SEC. 1803. UNLAWFUL CONTRACT AND AMENDED CONTRACT.***

*(a) IN GENERAL.—Effective on the date that is 180 days after the date of enactment of this Act, the contract referred to in section 1802(a)(4), as the contract exists on the date of enactment of this Act, shall be void.*

*(b) AMENDMENT OF CONTRACT.—This title does not preclude the parties to the contract referred to in section 1802(a)(4) from amending the contract or entering into a new contract after the date of enactment of this Act in a manner that is consistent with the findings and purposes of this title.*

***SEC. 1804. EXCLUSIVE ENFORCEMENT.***

*(a) IN GENERAL.—Only the Attorney General of a State in which electric power is provided under the contract referred to in section 1802(a)(4), as the contract may be amended after the date of enactment of this Act, may bring a civil action in United States district court for an order that—*

*(1) declares the amended contract not consistent with the findings and purposes of this title and is therefore void;*

*(2) enjoins performance of the amended contract; and*

*(3) relieves the electric utilities that are party to the amended contract of any liability under the contract.*

*(b) TIMING.—A civil action under subsection (a) shall be brought not later than 1 year after the date of the amended contract or new contract.*

## *TITLE XIX—CONSUMER CREDIT DISCLOSURE*

***SEC. 1901. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.***

*(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:*

*''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures required under this subsection: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.'.*

*''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures required under this subsection: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.'.*

*''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).*

*''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor who is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).*

*''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).*

*''(F) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).*

*''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).*

*''(H) The Board shall—*

*''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;*

*''(ii) establish the table required under clause (i) by assuming—*

*''(I) a significant number of different annual percentage rates;*

*''(II) a significant number of different account balances;*

*''(III) a significant number of different minimum payment amounts; and*

*''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and*

*''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).*

*''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.*

*''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the consumer's outstanding balance is not subject to the requirements of subparagraphs (A) and (B).''.*

*(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section. Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under this subsection shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

*(c) STUDY OF FINANCIAL DISCLOSURES.—*

*(1) IN GENERAL.—The Board may conduct a study to determine whether consumers have adequate information about borrowing activities that may result in financial problems.*

*(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—*

*(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;*

*(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;*

*(C) consumers make only the minimum payment under open end credit plans;*

*(D) consumers are aware that making only minimum payments will increase the cost and repayment period of an open end credit obligation; and*

*(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.*

*(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.*

***SEC. 1902. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.***

*(a) OPEN END CREDIT EXTENSIONS.—*

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

*(A) by striking ''CONSULTATION OF TAX 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 (as defined under the Federal Internal Revenue Code) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.*

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

*(A) by striking ''If any'' and inserting the following:*

*''(1) IN GENERAL.—If any''; and*

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

*''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—*

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

*''(B) the consumer should consult a tax 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, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—*

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

*''(2) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.''.*

*(c) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of subsections (a) and (b) of this section. Such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

***SEC. 1903. DISCLOSURES RELATED TO "INTRODUCTORY RATES".***

*(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:*

*''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation, for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—*

*''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;*

*''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state the following in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and*

*''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state the following in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.*

*''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.*

*''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—*

*''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and*

*''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—*

*''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or*

*''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.*

*''(D) DEFINITIONS.—In this paragraph—*

*''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and*

*''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.*

*''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.*

*(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

***SEC. 1904. INTERNET-BASED CREDIT CARD SOLICITATIONS.***

*(a) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:*

*''(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—*

*''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—*

*''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and*

*''(ii) the disclosures described in paragraph (6).*

*''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—*

*''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and*

*''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.*

*''(C) DEFINITIONS.—For purposes of this paragraph—*

*''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and*

*''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.*

*(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

***SEC. 1905. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.***

*(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:*

*''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date the following shall be stated clearly and conspicuously on the billing statement:*

*''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.*

*''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.*

*(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the*

*(''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

***SEC. 1906. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.***

*(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:*

*''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.*

*(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the (''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.*

***SEC. 1907. DUAL USE DEBIT CARD.***

*(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.*

*(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—*

*(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;*

*(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and*

*(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.*

***SEC. 1908. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.***

*(a) STUDY.—*

*(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.*

*(2) EXTENSION OF CREDIT.—The extension of credit referred to in paragraph (1) is the extension of credit to individuals who are—*

*(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and*

*(B) enrolled in postsecondary educational institutions.*

*(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).*

## MEASURE READ THE FIRST TIME—S. 2036

Mr. MACK. I understand that S. 2036, introduced earlier today by Senator SMITH of New Hampshire, is at the desk and I, therefore, ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2036) to make permanent the moratorium on the imposition of taxes on the Internet.

Mr. MACK. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

Under the rule, the bill will be read for the second time on the next legislative day.

## ORDERS FOR TUESDAY, FEBRUARY 8, 2000

Mr. MACK. Madam President, I ask unanimous consent that when the Senate completes its business today it adjourn until the hour of 9:30 a.m. on Tuesday, February 8. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10:30 a.m., with Senators speaking for up to 5 minutes each, with the following exceptions: The first 30 minutes under the control of Senator DURBIN or his designee; the second 30 minutes under the control of Senator THOMAS or his designee.

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

Mr. MACK. Further, I ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

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

## PROGRAM

Mr. MACK. For the information of all Senators, the Senate will be in a period of morning business until 10:30 a.m. Following morning business, it is expected that the Senate will then begin consideration of the nuclear waste disposal bill. If that consent is not granted, then there is an understanding that a cloture vote will occur at 2:15 on Tuesday with respect to a committee amendment. Members should be aware that amendments to the nuclear waste bill are anticipated, and those concerned are close to reaching an agreement providing for a limited number of amendments and debate time. Therefore, Senators can expect votes throughout tomorrow's session of the Senate. It is hoped that Senators who have amendments will work with the bill managers in an effort to complete this legislation in a timely manner.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MACK. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:10 p.m., adjourned until Tuesday, February 8, 2000, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 7, 2000:

### DEPARTMENT OF STATE

CAREY CAVANAUGH, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL NEGOTIATOR FOR NAGORNO-KARABAKH AND NEW INDEPENDENT STATES REGIONAL CONFLICTS.

RUST MACPHERSON DEMIG, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

JOHN W. LIMBERT, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

ROGER A. MEECE, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF BAHRAIN.

### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

CDR. MICHAEL H. GRANER, 0000
CDR. LARRY D. HICE, 0000
CDR. JOHN D. DWYER, 0000
CDR. ROBERT SHARKEY, 0000
CDR. ALAN R. FREEDMAN, 0000
CDR. BRUCE G. CLARK, 0000
CDR. CAROL A. RIVERS, 0000
CDR. JOANN F. SPANGENBERG, 0000
CDR. ALAN L. BROWN, 0000
CDR. GEORGE T. ELLIOTT, 0000
CDR. RICHARD A. WALLESHAUSER, JR., 0000
CDR. BRUCE R. MCQUEEN, 0000
CDR. MICHAEL R. SEWARD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be commander*

LT. CDR. DOUGLAS N. EAMES, 0000
LT. CDR. GREGORY C. ZURAKOWSKI, 0000
LT. CDR. RICHARD M. O'ROURKE, 0000
LT. CDR. MICHAEL J. MAZZONE, 0000
LT. CDR. PHILIP H. HALVORSON, 0000
LT. CDR. DAVID K. ALMOND, 0000
LT. CDR. LYNN J. DUMAS, 0000
LT. CDR. JEFFREY S. BAUER, 0000
LT. CDR. CHARLES R. MARQUIS, 0000
LT. CDR. JEFFREY SAINE, 0000
LT. CDR. DONALD M. HUGHES, 0000
LT. CDR. DIANE L. COLEMAN, 0000
LT. CDR. LONNIE A. DANIELS, JR., 0000
LT. CDR. RICKEY D. THOMAS, 0000
LT. CDR. SUSAN F. DAIGNAULT, 0000
LT. CDR. BERNARD T. MORELAND, 0000
LT. CDR. ROBERT H. CARMACK, 0000
LT. CDR. TIMOTHY A. AINES, 0000

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. CURTIS M. BEDKE, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. JOHN J. CATTON, JR., 0000
COL. DAVID E. CLARY, 0000
COL. MICHAEL A. COLLINGS, 0000
COL. SCOTT S. CUSTER, 0000
COL. DANIEL J. DARNELL, 0000
COL. DUANE W. DEAL, 0000
COL. VERN M. FINDLEY, II, 0000
COL. DOUGLAS M. FRASER, 0000
COL. DAN R. GOODRICH, 0000
COL. GILBERT R. HAWK, 0000
COL. RAYMOND E. JOHNS, JR., 0000
COL. TIMOTHY C. JONES, 0000
COL. PERRY L. LAMY, 0000
COL. EDWARD L. MAHAN, JR., 0000
COL. ROOSEVELT MERCER, JR., 0000
COL. GARY L. NORTH, 0000
COL. JOHN G. PAVLOVICH, 0000
COL. ALLEN G. PECK, 0000
COL. MICHAEL W. PETERSON, 0000
COL. TERESA M. PETERSON, 0000
COL. GREGORY H. POWER, 0000
COL. ANTHONY F. PRZYBYSLAWSKI, 0000
COL. RONALD T. RAND, 0000
COL. STEVEN J. REDMANN, 0000
COL. LOREN M. RENO, 0000
COL. JEFFREY R. RIEMER, 0000
COL. JACK L. RIVES, 0000
COL. MARC E. ROGERS, 0000
COL. ARTHUR J. ROONEY, JR., 0000
COL. STEPHEN T. SARGEANT, 0000
COL. DARRYL A. SCOTT, 0000
COL. JAMES M. SHAMESS, 0000
COL. WILLIAM L. SHELTON, 0000
COL. JOHN T. SHERIDAN, 0000
COL. TOREASER A. STEELE, 0000
COL. JAMES W. SWANSON, 0000
COL. GEORGE P. TAYLOR, JR., 0000
COL. GREGORY L. TREBON, 0000
COL. LOYD S. UTTERBACK, 0000
COL. FREDERICK D. VANVALKENBURG, JR., 0000
COL. DALE C. WATERS, 0000
COL. SIMON P. WORDEN, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. ALEXANDER H. BURGIN, 0000
BRIG. GEN. WILLIAM A. CUGNO, 0000
BRIG. GEN. BRADLEY D. GAMBILL, 0000
BRIG. GEN. MARIANNE MATHEWSON-CHAPMAN, 0000
BRIG. GEN. MICHAEL H. TAYLOR, 0000
BRIG. GEN. FRANCIS D. VAVALA, 0000

*To be brigadier general*

COL. JOHN A. BATHKE, 0000
COL. BARBARANETTE T. BOLDEN, 0000
COL. RONALD S. CHASTAIN, 0000
COL. RONALD G. CROWDER, 0000
COL. RICKY D. ERLANDSON, 0000
COL. DALLAS W. FANNING, 0000
COL. DONALD J. GOLDHORN, 0000
COL. LARRY W. HALTOM, 0000
COL. WILLIAM E. INGRAM, JR., 0000
COL. JOHN T. KING, JR., 0000
COL. RANDALL D. MOSLEY, 0000
COL. RICHARD C. NASH, 0000
COL. PHILLIP E. OATES, 0000
COL. RICHARD D. READ, 0000
COL. ANDREW M. SCHUSTER, 0000
COL. JONATHAN P. SMALL, 0000
COL. DAVID A. SPRYNCZYNATYK, 0000
COL. RONALD B. STEWART, 0000
COL. WARNER I. SUMPTER, 0000
COL. CLYDE A. VAUGHN, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. JAMES R. BATTAGLINI, 0000
BRIG. GEN. JAMES E. CARTWRIGHT, 0000
BRIG. GEN. CHRISTOPHER CORTEZ, 0000
BRIG. GEN. GARY H. HUGHEY, 0000
BRIG. GEN. THOMAS S. JONES, 0000
BRIG. GEN. RICHARD L. KELLY, 0000
BRIG. GEN. JOHN F. SATTLER, 0000
BRIG. GEN. WILLIAM A. WHITLOW, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. WILLIAM V. ALFORD, 0000
CAPT. JOHN P. DEBBOUT, 0000
CAPT. ROGER T. NOLAN, 0000
CAPT. STEPHEN S. OSWALD, 0000
CAPT. ROBERT O. PASSMORE, 0000
CAPT. GREGORY J. SLAVONIC, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) MICHAEL R. JOHNSON, 0000
REAR ADM. (LH) CHARLES R. KUBIC, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

REAR ADM. (LH) RODRIGO C. MELENDEZ, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

*To be lieutenant*

CHARLES G. BELENY, 0000
ALAAELDEEN M. ELSAYED, 0000

*To be major*

KRISTEN A. FULTSGANEY, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

WAYNE E. CAUGHMAN, 0000
BERNARD F. GERDING, 0000
RAYMOND E. MOORE, 0000
JAMES E. SEBREE, JR., 0000
CALVIN B. WIMBISH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAIN UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

HAROLD T. CARLSON, 0000
MARK A. FRITCH, 0000
LARRY J. GOODWILL, 0000
HENRY A. HAYNES, 0000
RONALD E. HILBURN, 0000
EDWARD K. MANEY, 0000
JOHN H. MCRAE, 0000
DANIEL J. PAUL, 0000
JOHN J. PRENDERGAST, 0000
LARRY D. ROBINSON, 0000
RICHARD P. ROGGIA, 0000
ELENITO B. SANTOS, 0000
GREGORY P. SYKES, 0000
JEFFREY M. YOUNG, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10 , U.S.C. SECTIONS 624 AND 3064:

*To be colonel*

LYLE W CAYCE, 0000
MALINDA E DUNN, 0000
ANTHONY M HELM, 0000
WILLIAM M MAYES, 0000
MICHELE M MILLER, 0000
MELVIN G OLMSCHEID, 0000
JOHN F PHELPS, 0000
FRED T PRIBBLE, 0000
STEVEN T SALATA, 0000
MORTIMER C SHEA, JR, 0000
PAUL L SNYDERS, 0000
WILLIAM A STRANKO II, 0000
MANUEL E SUPERVIELLE, 0000
MARC L WARREN, 0000
ROGER D WASHINGTON, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 624:

*To be commander*

DEAN J. GIORDANO, 0000
CINDY L. JAYNES, 0000
ROBERTA L. ROTHEN, 0000

*To be lieutenant commander*

PATRICK A. DAWKINS, 0000
BARRY J. GITTLEMAN, 0000
PAUL J. LOMMEL, 0000
WILLIAM K. NESMITH, 0000

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

*To be lieutenant commander*

DAVID R ALLISON, 0000
STEVEN R BALMER, 0000
CHRISTOPHER BOLLINGER, 0000
MICHAEL L BRYANT, 0000
JOHN G CARPENTIER, 0000
GARY W CRIGLOW, 0000
DAVID R FRITZ, 0000
DENNIS G GILMAN, 0000
STEVEN A GLOVER, 0000
BRUCE W GRISSOM, 0000
LEON R JABLOW, 0000
DEAN A JACOBS, 0000
ROBERT J LYNCH, 0000
JOHN B MORRISON, 0000
ANDREW R PAYNE, 0000
GARY W PINKERTON, 0000
GLENN H PORTERFIELD, 0000
RICHARD T SHELAR, 0000
TIMOTHY S STEADMAN, 0000
LEE G WARD, 0000
MATTHEW H WELSH, 0000
STEVE R WILKINSON, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

RAQUEL C BONO, 0000
JOHN W CROWLEY, 0000
DAVID A DAVIS, 0000
LEROY T JACKSON, 0000
TRACY A MALONE, 0000
JAMES C MARTIN, 0000
ROBERT MORALES, 0000
MARK E RALSTON, 0000
THOMAS L RICHIE, 0000

*To be lieutenant commander*

JAMES K AMSBERRY, 0000
KATHRYN A BALLANTYNE, 0000
GREGORY S BLASCHKE, 0000
PETER C BONDY, 0000
DOUGLAS F BREWSTER, 0000
JOHN E BROWN, 0000
ROBERT H BUCKLEY, 0000
DOUGLAS N CARBINE, 0000
JEFFREY A CONWELL, 0000
MIGUEL A CUBANO, 0000
MITCHELL DUKOVICH, 0000
KENNETH C EARHART, 0000
JAMES P FLINT, 0000
DAVID W FLOYD, 0000
EDDIE A GARCIA, 0000
JASON E GUEVARA, 0000
KEITH B GUSTAFSON, 0000
MARK E HAMMETT, 0000
JAMES W HANSEN, 0000
DOUGLAS A JONES, 0000
THOMAS J KIM, 0000
KATHERINE KITSVANHEYNINGEN, 0000
FREDERICK J LANDRO, 0000
EDWIN T LONG, 0000
WILLIAM H LYNCH, 0000
JEFFREY MARTINEZ, 0000
GEOFFREY MCCULLEN, 0000
JOHN D MITCHELL, 0000
STEVEN W MOLL, 0000
DEAN A PAGE, 0000
PHILIP W PERDUE, 0000
ALAN F PHILIPPI, 0000
FRANK A PUGLIESE, 0000
SCOTT R REICHARD, 0000
JAMES V RITCHIE, 0000
EILEEN SCANLAN, 0000
MARK A SCHMETZ, 0000
ALEXANDER SHIN, 0000
BRIAN D SMULLEN, 0000
TIMOTHY C SORRELLS, 0000
MARK V SUTHERLAND, 0000
JAMES H TARVER, 0000
MICHAEL A THOMPSON, 0000
JEFFREY W TIMBY, 0000
SANDRA S TOMITA, 0000
MICHAEL R WAGNER, 0000
DENTON D WEISS, 0000

*To be lieutenant*

KEITH N ADAMS, 0000
BARRY J BAUGHMAN, 0000
CATHERINE A BAYNE, 0000
DEDRA A BELL, 0000
RICHARD D BERGTHOLD, 0000
VALERIE J BEUTEL, 0000
ALEXANDER J BORZYCH, 0000
BRUCE H BOYLE, 0000
KEVIN R BRADSHAW, 0000
JON N BRADY, 0000
CHRISTOPHER BROWN, 0000
JANE E CAMPBELL, 0000
BRIAN D CLEMENT, 0000
MICHAEL A COLSON, 0000
RONALD A COOLEY, 0000
KENNETH D COUNTS, 0000
DAVID R CROWE, 0000
DERRICK M DAVIS, 0000
JAMES T DENLEY, 0000
STACY K DIPMAN, 0000
JOSEPH DIVINO, 0000
PAUL F EICH, 0000
EDWARD J FIORENTINO, 0000
JENNIFER M GEDDES, 0000
MARCIA L GILL, 0000
GREGG D GILLETTE, 0000
JEFFREY J GRAY, 0000
MICHAEL L GREENWALT, 0000
HERBERT L GRIFFIN, JR, 0000
ALAN M HANSEN, 0000
JULIE C HANSON, 0000
STEPHEN J HARTUNG, 0000
CHRISTOPHER T HEBERT, 0000
J PHILLIP HEDGES, JR, 0000
MARK R HENDRICKS, 0000
BRIAN M HERSHEY, 0000
KATHLEEN E HEWITT, 0000
EDWARD F HILER, 0000
EDWARD J HILYARD, 0000
JENNIFER P HORNE, 0000
BRUCE A HOUGESEN, 0000
BARBARA L HUFF, 0000
THOMAS R HUNT, JR, 0000
DAVID E JONES, 0000
KARON V JONES, 0000
ROBERT J KILLIUS, 0000
JAMES A KIRK, 0000

ALLEN R KUSS, 0000
GARY E LAMB, 0000
CHRISTOPHER F LAMOUREAUX, 0000
ROBERT B LANCIA, 0000
LENORA C LANGLAIS, 0000
ROBERT S LAWRENCE, 0000
ARTHUR H LOGAN, 0000
MICHAEL P LYNN, 0000
KEVIN M MATULEWICZ, 0000
DENISE K MC ELDOWNEY, 0000
ROBERT K MC GAHA, 0000
MARY A MCMACKIN, 0000
GREGORY C MERK, 0000
ROSARIO P MERRELL, 0000
DREW C MESSER, 0000
ADAM S MICHELS, 0000
WILLIAM D MILAM, 0000
NANCY L MONTAGOT, 0000
DONALD R MOSS, 0000
MICHAEL G MUELLER, 0000
DAVID H NORMAN, 0000
ROBERT E OBRECHT, 0000
DIANNE M OKONSKY, 0000
BENJAMIN L ORCHARD, 0000
CARLOS B ORTIZ, 0000
MICHAEL J OSBORN, 0000
CHRISTINA G PARDUE, 0000
LAURENCE M PATRICK, 0000
TANYA M PONDER, 0000
DAVID E PRATT, 0000
JACQUELINE PRUITT, 0000
ROBERT J PUDLO, 0000
KAY R REEB, 0000
KEVIN J REGAN, 0000
JAY S RICHARDS, 0000
MARCIA A RIPLEY, 0000
LOVETTE T ROBINSON, 0000
LOUIS ROSA, 0000
GLORIA A RUSSELL, 0000
DEIDRE I SALL, 0000
SCOTT A SAMPLES, 0000
JEFFREY N SAVILLE, 0000
WILLIAM G SCHORGL, 0000
BRENT W SCOTT, 0000
JEOSALINA N SERBAS, 0000
THAD M SHELTON, 0000
LESLIE K SIAS, 0000
GREGORY J SINGERLE, JR, 0000
GLENDA D SINK, 0000
JEFFREY E SMITH, 0000
JONATHAN M SMITH, 0000
STUART D SMITH, 0000
ERIN G SNOW, 0000
KAREN A SORIA, 0000
CHRISTOPHER T SOSA, 0000
DEREK L TEACHOUT, 0000
MARY A TILLOTSON, 0000
WILLIAM D TITUS, 0000
JOSUE TORO, 0000
DAVID A TUBLEY, 0000
KEN H UYESUGI, 0000
PAUL E VOLLE, 0000
ANDREW J WEGNAN, 0000
BARRY E WILCOX, II, 0000
MIL A YI, 0000