116TH CONGRESS 2D SESSION

S. 4996

AN ACT

To ensure funding of the United States trustees, extend temporary bankruptcy judgeships, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- ${\it 2\ tives\ of\ the\ United\ States\ of\ America\ in\ Congress\ assembled},$

1 SECTION 1. SHORT TITLE.

- 2 This Act may be cited as the "Bankruptcy Adminis-
- 3 tration Improvement Act of 2020".

4 SEC. 2. FINDINGS AND PURPOSE.

- 5 (a) FINDINGS.—Congress finds the following:
- 6 (1) Because of the importance of the goal that
 7 the bankruptcy system is self-funded, at no cost to
 8 the taxpayer, Congress has closely monitored the
 9 funding needs of the bankruptcy system, including
 10 by requiring periodic reporting by the Attorney Gen11 eral regarding the United States Trustee System
 12 Fund.
 - (2) Congress has amended the various bankruptcy fees as necessary to ensure that the bankruptcy system remains self-supporting, while also fairly allocating the costs of the system among those who use the system.
 - (3) Because the bankruptcy system is interconnected, the result has been a system of fees, including filing fees, quarterly fees in chapter 11 cases, and other fees, that together fund the courts, judges, United States trustees, and chapter 7 case trustees necessary for the bankruptcy system to function.
- 25 (4) This Act and the amendments made by this
- 26 Act—

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1 (A) ensure adequate funding of the United 2 States trustees, supports the preservation of ex-3 isting bankruptcy judgeships that are urgently 4 needed to handle existing and anticipated in-5 creases in business and consumer caseloads, 6 and provides long-overdue additional compensa-7 tion for chapter 7 case trustees whose caseloads 8 include chapter 11 reorganization cases that 9 were converted to chapter 7 liquidation cases; 10 and (B) confirm the longstanding intention of 11 12 Congress that quarterly fee requirements re-13 main consistent across all Federal judicial dis-14 tricts. 15 (b) Purpose.—The purpose of this Act and the amendments made by this Act is to further the long-stand-16 ing goal of Congress of ensuring that the bankruptcy system is self-funded, at no cost to the taxpayer. 18 19 SEC. 3. UNITED STATES TRUSTEE SYSTEM FUND; BANK-

- 20 RUPTCY FEES.
- 21 (a) Deposits of Certain Fees for Fiscal Years
- 2021 THROUGH 2026.—Notwithstanding section 589a(b)
- 23 of title 28, United States Code, for each of fiscal years
- 2021 through 2026—

1	(1) the fees collected under section 1930(a)(6)
2	of such title, less the amount specified in subpara-
3	graph (2), shall be deposited as specified in sub-
4	section (b); and
5	(2) \$5,400,000 of the fees collected under sec-
6	tion 1930(a)(6) of such title shall be deposited in
7	the general fund of the Treasury.
8	(b) United States Trustee System Fund.—Sec-
9	tion 589a of title 28, United States Code, is amended by
10	adding at the end the following:
11	"(f)(1) During each of fiscal years 2021 through
12	2026 and notwithstanding subsections (b) and (c), the fees
13	collected under section 1930(a)(6), less the amount speci-
14	fied in paragraph (2), shall be deposited as follows, in the
15	following order:
16	"(A) First, the amounts specified in the De-
17	partment of Justice appropriations for that fiscal
18	year, shall be deposited as discretionary offsetting
19	collections to the "United States Trustee System
20	Fund", pursuant to subsection (a), to remain avail-
21	able until expended.
22	"(B) Second, the amounts determined annually
23	by the Director of the Administrative Office of the
24	United States Courts that are necessary to reim-
25	burse the judiciary for the costs of administering

payments under section 330(e) of title 11, shall be deposited as mandatory offsetting collections to the 'United States Trustee System Fund', and transferred and deposited into the special fund established under section 1931(a), and notwithstanding subsection (a), shall be available for expenditure without further appropriation.

"(C) Third, the amounts determined annually by the Director of the Administrative Office of the United States Courts that are necessary to pay trustee compensation authorized by section 330(e)(2) of title 11, shall be deposited as mandatory offsetting collections to the 'United States Trustee System Fund', and transferred and deposited into the Chapter 7 Trustee Fund established under section 330(e) of title 11 for payment to trustees serving in cases under chapter 7 of title 11 (in addition to the amounts paid under section 330(b) of title 11), in accordance with that section, and notwithstanding subsection (a), shall be available for expenditure without further appropriation.

"(D) Fourth, any remaining amounts shall be deposited as discretionary offsetting collections to the 'United States Trustee System Fund', to remain available until expended.

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- 1 "(2) Notwithstanding subsection (b), for each of fis-
- 2 cal years 2021 through 2026, \$5,400,000 of the fees col-
- 3 lected under section 1930(a)(6) shall be deposited in the
- 4 general fund of the Treasury.".
- 5 (c) Compensation of Officers.—Section 330 of
- 6 title 11, United States Code, is amended by adding at the
- 7 end the following:
- 8 "(e)(1) There is established a fund in the Treasury
- 9 of the United States, to be known as the 'Chapter 7 Trust-
- 10 ee Fund', which shall be administered by the Director of
- 11 the Administrative Office of the United States Courts.
- 12 "(2) Deposits into the Chapter 7 Trustee Fund under
- 13 section 589a(f)(1)(C) of title 28 shall be available until
- 14 expended for the purposes described in paragraph (3).
- 15 "(3) For fiscal years 2021 through 2026, the Chapter
- 16 7 Trustee Fund shall be available to pay the trustee serv-
- 17 ing in a case that is filed under chapter 7 or a case that
- 18 is converted to a chapter 7 case in the most recent fiscal
- 19 year (referred to in this subsection as a 'chapter 7 case')
- 20 the amount described in paragraph (4) for the chapter 7
- 21 case in which the trustee has rendered services in that fis-
- 22 cal year.
- 23 "(4) The amount described in this paragraph shall
- 24 be the lesser of—
- 25 "(A) \$60; or

1	"(B) a pro rata share, for each chapter 7 case,
2	of the fees collected under section 1930(a)(6) of title
3	28 and deposited to the United States Trustee Sys-
4	tem Fund under section 589a(f)(1) of title 28, less
5	the amounts specified in section $589a(f)(1)(A)$ and
6	(B) of title 28.
7	"(5) The payment received by a trustee under para-
8	graph (3) shall be paid in addition to the amount paid
9	under subsection (b).
10	"(6) Not later than September 30, 2021, the Director
11	of the Administrative Office of the United States Courts
12	shall promulgate regulations for the administration of this
13	subsection.".
14	(d) Bankruptcy Fees.—Section 1930(a) of title 28,
15	United States Code, is amended—
16	(1) by striking paragraph (6)(B) and inserting
17	the following:
18	"(B)(i) During the 5-year period beginning
19	on January 1, 2021, in addition to the filing fee
20	paid to the clerk, a quarterly fee shall be paid
21	to the United States trustee, for deposit in the
22	Treasury, in each open and reopened case
23	under chapter 11 of title 11, other than under
24	subchapter V, for each quarter (including any

1	fraction thereof) until the case is closed, con-
2	verted, or dismissed, whichever occurs first.
3	"(ii) The fee shall be the greater of—
4	"(I) 0.4 percent of disbursements or
5	\$250 for each quarter in which disburse-
6	ments total less than \$1,000,000; and
7	"(II) 0.8 percent of disbursements but
8	not more than \$250,000 for each quarter
9	in which disbursements total at least
10	\$1,000,000.
11	"(iii) The fee shall be payable on the last
12	day of the calendar month following the cal-
13	endar quarter for which the fee is owed."; and
14	(2) in paragraph (7), in the first sentence, by
15	striking "may" and inserting "shall".
16	(e) Applicability.—
17	(1) In general.—Except as provided in para-
18	graph (2), the amendments made by this section
19	shall take effect on the date of enactment of this
20	Act.
21	(2) Exceptions.—
22	(A) Compensation of officers.—The
23	amendments made by subsection (c) shall apply
24	to any case filed on or after the date of enact-
25	ment of this Act—

1	(i) under chapter 7 of title 11, United
2	States Code; or
3	(ii)(I) under chapter 11, 12, or 13 of
4	that title; and
5	(II) converted to a chapter 7 case
6	under that title.
7	(B) Bankruptcy fees.—The amend-
8	ments made by subsection (d) shall apply to—
9	(i) any case pending under chapter 11
10	of title 11, United States Code, on or after
11	the date of enactment of this Act; and
12	(ii) quarterly fees payable under sec-
13	tion 1930(a)(6) of title 28, United States
14	Code, as amended by subsection (d), for
15	disbursements made in any calendar quar-
16	ter that begins on or after the date of en-
17	actment of this Act.
18	SEC. 4. EXTENSION OF TEMPORARY OFFICE OF BANK-
19	RUPTCY JUDGES IN CERTAIN JUDICIAL DIS-
20	TRICTS.
21	(a) Temporary Office of Bankruptcy Judges
22	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
23	2017.—
24	(1) Extensions.—The temporary office of
25	bankruptcy judges authorized by section 1003(a) of

1	the Bankruptcy Judgeship Act of 2017 (28 U.S.C.
2	152 note) for the district of Delaware and the east-
3	ern district of Michigan are extended until the appli-
4	cable vacancy specified in paragraph (2) in the office
5	of a bankruptcy judge for the respective district oc-
6	curs.
7	(2) Vacancies.—
8	(A) DISTRICT OF DELAWARE.—The 1st
9	and 2d vacancies in the office of a bankruptcy
10	judge for the district of Delaware—
11	(i) occurring 5 years or more after the
12	date established by section $1003(b)(1)$ of
13	the Bankruptcy Judgeship Act of 2017 (28
14	U.S.C. 152 note), and
15	(ii) resulting from the death, retire-
16	ment, resignation, or removal of a bank-
17	ruptcy judge,
18	shall not be filled.
19	(B) Eastern district of michigan.—
20	The 1st vacancy in the office of a bankruptcy
21	judge for the eastern district of Michigan—
22	(i) occurring 5 years or more after the
23	date established by section 1003(b)(3) of
24	the Bankruptcy Judgeship Act of 2017 (28
25	U.S.C. 152 note), and

1	(ii) resulting from the death, retire-
2	ment, resignation, or removal of a bank-
3	ruptcy judge,
4	shall not be filled.
5	(3) Applicability of other provisions.—
6	Except as provided in paragraphs (1) and (2), all
7	other provisions of section 1003 of the Bankruptcy
8	Judgeship Act of 2017 (28 U.S.C. 152 note) remain
9	applicable to the temporary office of bankruptcy
10	judges referred to in paragraph (1).
11	(b) Temporary Office of Bankruptcy Judges
12	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
13	2005 and Extended by the Temporary Bankruptcy
14	Judgeships Extension Act of 2012 and the Bank-
15	RUPTCY JUDGESHIP ACT OF 2017.—
16	(1) Extensions.—The temporary office of
17	bankruptcy judges authorized for the following dis-
18	tricts by section 1223(b) of the Bankruptcy Judge-
19	ship Act of 2005 (28 U.S.C. 152 note), extended by
20	section 2(a) of the Temporary Bankruptcy Judge-
21	ships Extension Act of 2012 (28 U.S.C. 152 note),
22	and further extended by section 1002(a) of the
23	Bankruptcy Judgeship Act of 2017 (28 U.S.C. 152
24	note) are extended until the applicable vacancy spec-

1	ified in paragraph (2) in the office of a bankruptcy
2	judge for the respective district occurs:
3	(A) The district of Delaware.
4	(B) The southern district of Florida.
5	(C) The district of Maryland.
6	(D) The eastern district of Michigan.
7	(E) The district of Nevada.
8	(F) The eastern district of North Carolina.
9	(G) The district of Puerto Rico.
10	(H) The eastern district of Virginia.
11	(2) Vacancies.—
12	(A) SINGLE VACANCIES.—Except as pro-
13	vided in subparagraphs (B), (C), (D), (E), and
14	(F), the 1st vacancy in the office of a bank-
15	ruptcy judge for each district specified in para-
16	graph (1)—
17	(i) occurring 5 years or more after the
18	date established by section 1002(a)(2) of
19	the Bankruptcy Judgeship Act of 2017 (28
20	U.S.C. 152 note), and
21	(ii) resulting from the death, retire-
22	ment, resignation, or removal of a bank-
23	ruptcy judge,
24	shall not be filled.

1	(B) DISTRICT OF DELAWARE.—The 3d,
2	4th, 5th, and 6th vacancies in the office of a
3	bankruptcy judge for the district of Delaware—
4	(i) occurring 5 years or more after the
5	date established by section 1002(a)(2) of
6	Bankruptcy Judgeship Act of 2017 (28
7	U.S.C. 152 note), and
8	(ii) resulting from the death, retire-
9	ment, resignation, or removal of a bank-
10	ruptcy judge,
11	shall not be filled.
12	(C) SOUTHERN DISTRICT OF FLORIDA.—
13	The 1st and 2d vacancies in the office of a
14	bankruptcy judge for the southern district of
15	Florida—
16	(i) occurring 5 years or more after the
17	date established by section 1002(a)(2) of
18	the Bankruptcy Judgeship Act of 2017 (28
19	U.S.C. 152 note), and
20	(ii) resulting from the death, retire-
21	ment, resignation, or removal of a bank-
22	ruptcy judge,
23	shall not be filled.

1	(D) DISTRICT OF MARYLAND.—The 1st
2	vacancy in the office of a bankruptcy judge for
3	the district of Maryland—
4	(i) occurring 5 years or more after the
5	date established by section 1002(a)(2) of
6	the Bankruptcy Judgeship Act of 2017 (28
7	U.S.C. 152 note), and
8	(ii) resulting from the death, retire-
9	ment, resignation, or removal of a bank-
10	ruptcy judge,
11	shall not be filled.
12	(E) Eastern district of michigan.—
13	The 2d vacancy in the office of a bankruptcy
14	judge for the eastern district of Michigan—
15	(i) occurring 5 years or more after the
16	date established by section 1002(a)(2) of
17	the Bankruptcy Judgeship Act of 2017 (28
18	U.S.C. 152 note), and
19	(ii) resulting from the death, retire-
20	ment, resignation, or removal of a bank-
21	ruptcy judge,
22	shall not be filled.
23	(F) DISTRICT OF PUERTO RICO.—The 1st
24	vacancy in the office of a bankruptcy judge for
25	the district of Puerto Rico—

1	(i) occurring 5 years or more after the
2	date established by section 1002(a)(2) of
3	the Bankruptcy Judgeship Act of 2017 (28
4	U.S.C. 152 note), and
5	(ii) resulting from the death, retire-
6	ment, resignation, or removal of a bank-
7	ruptcy judge,
8	shall not be filled.
9	(3) Applicability of other provisions.—
10	Except as provided in paragraphs (1) and (2), all
11	other provisions of section 1223 of the Bankruptcy
12	Judgeship Act of 2005 (28 U.S.C. 152 note), section
13	2 of the Temporary Bankruptcy Judgeships Exten-
14	sion Act of 2012 (28 U.S.C. 152 note), and section
15	1002 of the Bankruptcy Judgeship Act of 2017 (28
16	U.S.C. 152 note) remain applicable to the temporary
17	office of bankruptcy judges referred to in paragraph
18	(1).
19	(c) Temporary Office of Bankruptcy Judges
20	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
21	2005 AND EXTENDED BY THE TEMPORARY BANKRUPTCY
22	Judgeships Extension Act of 2012.—
23	(1) Extensions.—The temporary office of
24	bankruptcy judges authorized for the following dis-
25	tricts by section 1223(b) of the Bankruptcy Judge-

1	ship Act of 2005 (28 U.S.C. 152 note) and extended
2	by section 2(a) of the Temporary Bankruptcy
3	Judgeships Extension Act of 2012 (28 U.S.C. 152
4	note) are extended until the applicable vacancy spec-
5	ified in paragraph (2) in the office of a bankruptcy
6	judge for the respective district occurs:
7	(A) The southern district of Georgia.
8	(B) The district of Maryland.
9	(C) The district of New Jersey.
10	(D) The northern district of New York.
11	(E) The district of South Carolina.
12	(2) Vacancies.—
13	(A) SINGLE VACANCIES.—Except as pro-
14	vided in subparagraph (B), the 1st vacancy in
15	the office of a bankruptcy judge for each dis-
16	trict specified in paragraph (1)—
17	(i) occurring 5 years or more after the
18	date of the enactment of this Act, and
19	(ii) resulting from the death, retire-
20	ment, resignation, or removal of a bank-
21	ruptcy judge,
22	shall not be filled.
23	(B) DISTRICT OF MARYLAND.—The 2d
24	and 3d vacancies in the office of a bankruptcy
25	judge for the district of Maryland—

1	(i) occurring 5 years or more after the
2	date of the enactment of this Act, and
3	(ii) resulting from the death, retire-
4	ment, resignation, or removal of a bank-
5	ruptcy judge,
6	shall not be filled.
7	(3) Applicability of other provisions.—
8	Except as provided in paragraphs (1) and (2), all
9	other provisions of section 1223 of the Bankruptcy
10	Judgeship Act of 2005 (28 U.S.C. 152 note) and
11	section 2 of the Temporary Bankruptcy Judgeships
12	Extension Act of 2012 (28 U.S.C. 152 note) remain
13	applicable to the temporary office of bankruptcy
14	judges referred to in paragraph (1).
15	(d) Temporary Office of Bankruptcy Judges
16	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
17	1992 AND EXTENDED BY THE BANKRUPTCY JUDGESHIP
18	ACT OF 2005, THE TEMPORARY BANKRUPTCY JUDGE-
19	SHIPS EXTENSION ACT OF 2012, AND THE BANKRUPTCY
20	JUDGESHIP ACT OF 2017.—
21	(1) Extensions.—The temporary office of
22	bankruptcy judges authorized by section 3(a) of the
23	Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152
24	note), extended by section 1223(c) of Bankruptcy
25	Judgeship Act of 2005 (28 U.S.C. 152 note), ex-

1	tended by section 2(b) of the Temporary Bankruptcy					
2	Judgeships Extension Act of 2012 (28 U.S.C. 152					
3	note), and further extended by section 1002(b) of					
4	the Bankruptcy Judgeship Act of 2017 (28 U.S.C.					
5	152 note) for the district of Delaware and the dis					
6	trict of Puerto Rico are extended until the applicable					
7	vacancy specified in paragraph (2) in the office of a					
8	bankruptcy judge for the respective district occurs					
9	(2) Vacancies.—					
10	(A) DISTRICT OF DELAWARE.—The 7th					
11	vacancy in the office of a bankruptcy judge for					
12	the district of Delaware—					
13	(i) occurring 5 years or more after the					
14	date established by section $1002(b)(2)$ of					
15	the Bankruptcy Judgeship Act of 2017 (28					
16	U.S.C. 152 note), and					
17	(ii) resulting from the death, retire-					
18	ment, resignation, or removal of a bank-					
19	ruptcy judge,					
20	shall not be filled.					
21	(B) DISTRICT OF PUERTO RICO.—The 2d					
22	vacancy in the office of a bankruptcy judge for					
23	the district of Puerto Rico—					
24	(i) occurring 5 years or more after the					
25	date established by section 1002(b)(2) of					

1	the Bankruptcy Judgeship Act of 2017 (28
2	U.S.C. 152 note), and
3	(ii) resulting from the death, retire-
4	ment, resignation, or removal of a bank-
5	ruptcy judge,
6	shall not be filled.
7	(3) Applicability of other provisions.—
8	Except as provided in paragraphs (1) and (2), all
9	other provisions of section 3 of the Bankruptcy
10	Judgeship Act of 1992 (28 U.S.C. 152 note), section
11	1223 of Bankruptcy Judgeship Act of 2005 (28
12	U.S.C. 152 note), section 2 of the Temporary Bank-
13	ruptcy Judgeships Extension Act of 2012 (28
14	U.S.C. 152 note), and section 1002 of the Bank-
15	ruptcy Judgeship Act of 2017 (28 U.S.C. 152 note)
16	remain applicable to the temporary office of bank-
17	ruptcy judges referred to in paragraph (1).
18	(e) Temporary Office of Bankruptcy Judge
19	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
20	1992 AND EXTENDED BY THE BANKRUPTCY JUDGESHIP
21	ACT OF 2005 AND THE TEMPORARY BANKRUPTCY
22	Judgeships Extension Act of 2012.—
23	(1) Extensions.—The temporary office of
24	bankruptcy judge authorized by section 3(a) of the
25	Bankruntey Judgeship Act of 1992 (28 U.S.C. 152

- note), extended by section 1223(c) of the Bankruptcy Judgeship Act of 2005 (28 U.S.C. 152 note), and further extended by section 2(b) of the Tem-porary Bankruptcy Judgeships Extension Act of 2012 (28 U.S.C. 152 note) for the eastern district of Tennessee is extended until the applicable vacancy specified in paragraph (2) in the office of a bank-ruptcy judge for the district occurs.
 - (2) Vacancy.—The 1st vacancy in the office of a bankruptcy judge for the eastern district of Tennessee—
- 12 (A) occurring 5 years or more after the 13 date of the enactment of this Act, and
 - (B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge, shall not be filled.
 - (3) APPLICABILITY OF OTHER PROVISIONS.—
 Except as provided in paragraphs (1) and (2), all other provisions of section 3 of the Bankruptcy
 Judgeship Act of 1992 (28 U.S.C. 152 note), section
 1223 of the Bankruptcy Judgeship Act of 2005 (28 U.S.C. 152 note), and section 2 of the Temporary
 Bankruptcy Judgeships Extension Act of 2012 (28 U.S.C. 152 note) remain applicable to the temporary

1	office of bankruptcy judge referred to in paragraph
2	(1).
3	(f) Temporary Office of Bankruptcy Judge
4	AUTHORIZED BY THE BANKRUPTCY JUDGESHIP ACT OF
5	1992 AND EXTENDED BY THE TEMPORARY BANKRUPTCY
6	Judgeships Extension Act of 2012.—
7	(1) Extensions.—The temporary office of
8	bankruptcy judge authorized by section 3(a) of the
9	Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152
10	note) and extended by section 2(c) of the Temporary
11	Bankruptcy Judgeships Extension Act of 2012 (28
12	U.S.C. 152 note) for the middle district of North
13	Carolina is extended until the applicable vacancy
14	specified in paragraph (2) in the office of a bank-
15	ruptcy judge for the district occurs.
16	(2) Vacancy.—The 1st vacancy in the office of
17	a bankruptcy judge for the middle district of North
18	Carolina—
19	(A) occurring 5 years or more after the
20	date of the enactment of this Act, and
21	(B) resulting from the death, retirement,
22	resignation, or removal of a bankruptcy judge,
23	shall not be filled.
24	(3) Applicability of other provisions.—
25	Except as provided in paragraphs (1) and (2), all

- 1 other provisions of section 3 of the Bankruptcy
- 2 Judgeship Act of 1992 (28 U.S.C. 152 note) and
- 3 section 2 of the Temporary Bankruptcy Judgeships
- 4 Extension Act of 2012 (28 U.S.C. 152 note) (28
- 5 U.S.C. 152 note) remain applicable to the temporary
- 6 office of bankruptcy judge referred to in paragraph
- 7 (1).
- 8 SEC. 5. REGULATIONS.
- 9 Section 375(h) of title 28, United States Code, is
- 10 amended by striking "may" and inserting "shall".

Passed the Senate December 9, 2020.

Attest:

Secretary.

116TH CONGRESS S. 4996

AN ACT

To ensure funding of the United States trustees, extend temporary bankruptcy judgeships, and for other purposes.