

In fact, that is very relevant to the statement I am going to make concerning the introduction of a bill.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 1648 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, I very much thank my colleagues and good friends, the Senator from Iowa and the Senator from New Jersey, for their courtesy.

The PRESIDING OFFICER. The Senator from New Jersey.

THE BANKRUPTCY REFORM BILL

Mr. TORRICELLI. Mr. President, I rise with some considerable regret to discuss the bankruptcy reform bill that was pulled from the floor of the Senate last week. Senator GRASSLEY and I have worked for over 8 months to craft what I believe is a broadly bipartisan bankruptcy bill. Indeed, Senator GRASSLEY has worked tirelessly for years to craft this legislation. He deserves the considerable gratitude of every Member of this institution.

I regret that after all these months of work, last week we were forced to vote on a cloture motion. I do not believe that the cloture vote was in any way indicative of support for the bill. It is important that that be understood.

Bipartisan support for this bankruptcy legislation is broad and it is deep. The legislation has seven cosponsors; five of them are Democrats. The legislation was voted successfully out of the Judiciary Committee with support from both parties. The inability to move forward on a bankruptcy reform bill is entirely due to unrelated events. The legislation on its merits still stands.

I believe it is important that Senator GRASSLEY and I make clear to people, both within the institution and outside the institution, that we are absolutely committed in this Congress, in this year, to continuing to have bankruptcy legislation considered and passed. Indeed, I believe if the majority leader brings bankruptcy reform to the floor of the Senate, in a matter of only a few days we can resolve the outstanding issues.

I also think it is important that our colleagues understand why we are so motivated to have this bankruptcy reform legislation passed. There are considerable reasons.

We are, to be sure, living in the most prosperous economic period in our Nation's history. The facts are renowned: Unemployment is low, inflation is low, the Nation has created 18 million new jobs, and now the Federal Government is having a burgeoning budget surplus.

But amidst all this prosperity, there are some troubling signs, things that deserve our attention. One is a rapidly declining personal savings rate. Indeed, that is what motivated me to vote for tax cut legislation: To stimulate pri-

vate savings in America so Americans will prepare for their own futures.

But second is an issue that relates to this legislation: A rapid, inexplicable rise in consumer bankruptcies. In 1998 alone, 1.4 million Americans sought bankruptcy protection—this is a 20-percent increase since 1996 and a staggering 350-percent increase in bankruptcy filings since 1980.

It is estimated that 70 percent of the petitions filed were in chapter 7, which provides relief from most unsecured debt. Only 30 percent of the petitions were filed under chapter 13, which requires a repayment plan.

No matter what the cause of so many bankruptcies, what every American needs to understand is that somebody is paying the price. If people are availing themselves of chapter 7, rather than chapter 13, which ultimately requires the repayment of many of these debts, the balance is going to be paid by somebody, and that somebody is the American consumer.

Indeed, I believe this is the equivalent of an invisible tax on the American family, estimated to cost each and every American family \$400 a year, as retailers and financial institutions adjust the prices of their products and their costs to reflect this growing tide of bankruptcy.

The reality is that the majority of people who file for bankruptcy—low-to-middle-income, hard-working people—do so to manage overwhelming financial problems. That is as it should be. That is why the United States has always had a bankruptcy code—to protect people and allow them to reorganize their lives, to give people a second chance in American society.

But just the same, with these staggering numbers of increase—20 percent in only 3 years—there must be something else going on in our society. That something is revealed in a recent study by the Department of Justice indicating that as many as 13 percent of debtors filing under chapter 7—182,000 people each year—can, indeed, afford to repay a significant amount of their outstanding debt. That amounts to \$4 billion that would have been paid to creditors but is being avoided, inappropriately, by what amounts, in my judgment, to a misuse of the bankruptcy code.

I believe the Congress must act. This invisible tax impacts the health of our financial institutions, forces small business people to absorb these costs, forces some family businesses out of business, and it is a cost we can avoid.

The bankruptcy legislation that Senator GRASSLEY and I have crafted strikes an important balance, making it more difficult for the unscrupulous to abuse the system but ensuring that families who really need bankruptcy protection to reorganize their lives still have access to it.

At its core, the Grassley-Torricelli bill is designed to assure that those with the ability to repay a portion of their debts will be required to do so but

that judicial discretion will ensure that no one who is genuinely in need of debt cancellation is prevented from having a fresh start in American life.

When this legislation passed the Judiciary Committee, there were those who had legitimate concerns about some of its other provisions. I was among them and stated so at the time. These ranged from the liability of a debtor's lawyer to ensuring that low-income debtors with no hope of repaying their debts were not swept into the means test.

Colleagues should understand that Senator GRASSLEY and I are prepared, with a managers' amendment, both to ensure that the debtor's lawyers are protected from liability and that low-income people are not inappropriately subjected to this means test. That managers' amendment, I believe, will pass and will make this far better legislation than the Senate considered previously or the legislation that passed the Judiciary Committee.

I am very pleased that we have come so far with this bill. It is critical for our financial institutions and, indeed, it is critical for American families.

There remains one other central issue, however, that must be in this legislation, and that is dealing with the other half of this balance. It is the question of the abuse, I believe, of credit in the Nation itself.

The credit card industry last year sent out 3.5 billion solicitations—41 mailings for every American household; 14 for every man, woman, and child. No one wants to interfere with poor or working people getting access to credit. They should have the availability to do so, but there is something wrong when 14 solicitations per person are being received; when college students, juveniles, poor people are solicited again and again and again, often for high-interest credit. Indeed, these solicitations for high school and college students are at record levels.

The result of this solicitation is not surprising: Americans with incomes below the poverty line have doubled their credit usage; 27 percent of families earning less than \$10,000 have consumer debt that is more than 40 percent of their income. Indeed, it is not our intention to restrict access to credit for low-income people or even young people. Senator GRASSLEY and I have crafted legislation that will at least ensure that consumers are protected by giving them knowledge, by having full disclosure so people can make informed judgments, when receiving these solicitations, about how much debt they want and what it will take to repay it and on what kind of a schedule.

Taken as a whole—all of the provisions in the managers' amendment, the legislation from the Judiciary Committee—Senator GRASSLEY's work in consumer protection is a well-crafted and a very balanced bill.

My hope is it can receive early consideration but that, under any circumstances, this Senate does not adjourn for the year without providing

for American families this credit protection by full disclosure, by providing for American business protection against bankruptcy abuse, and by redesigning this code so that it is fair to our businesses and our consumers alike.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

THE PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I know the Senator from New Jersey has to leave. But before he does, in front of all of my colleagues, I want to thank him very much for an outstanding statement that focuses on the complexity of the bankruptcy problem. Most importantly, he focused attention on the bipartisanship of this legislation and on our commitment to getting it passed not only this Congress, but this year. It can be done.

I encourage the Democratic and Republican leaders to have the necessary meetings and conversations it takes to bring this bill to the floor under a reasonable agreement so we can start work on it. In just a few hours, we can work our way through the disagreements that other Members might have and do it in a bipartisan way and get this bill on its way to the President of the United States.

So in public, I am happy to thank the Senator from New Jersey for his cooperation. He has worked with me in a truly bipartisan way. For constituents who might be listening anywhere in the United States who are concerned about this body or Congress as a whole or Washington, DC, being too partisan, this bankruptcy bill is an example of where bi-partisanship has worked. If I had tried to do this in a partisan manner, this bill would not even be as far as it is.

Mr. GRASSLEY. Before getting to the big bankruptcy bill, I want to touch on a related matter—the problem of the sunsetting of the agricultural provisions of the bankruptcy code, chapter 12. I believe it is the only section of the bankruptcy code that is sunset from time to time. It is not a permanent part of the bankruptcy code. It was passed about 13 years ago to meet the needs of agriculture in depression in the 1980s, and it has been renewed by Congress continually since then.

It has been a very successful part of the bankruptcy code because, of the farmers who have sought the protection of chapter 12, an Iowa State University study indicates that 84 percent are still in business farming, family farmers still farming.

We are at a situation where 1 year ago, about this period of time, chapter 12 actually sunset. It was extended for 6 months in the omnibus spending bill because the feeling was that we wanted to take it up at the very same time a revision of the entire bankruptcy code was taken up. The comprehensive bill is the bill that Senator TORRICElli has spoken about and which I will discuss

shortly. Within that bill, there is a permanency brought to chapter 12 in the bankruptcy code so it will no longer sunset.

The March 31 deadline came, and this bill was not up. It was extended yet again for 6 months. I urged the majority leader to extend it for a year because I anticipated some of the problems we have recently faced regarding the bankruptcy code. It was thought by a lot of interests in this city that it was necessary to have chapter 12 not made permanent, separate from the entire bankruptcy law, because it was needed to help get the general bankruptcy revisions through. So it was extended for another 6 months.

This week it is going to expire again. It is ludicrous that the House of Representatives, just yesterday, passed only a 3-month extension of chapter 12 so that somehow if we don't get this permanent bankruptcy bill passed, we are going to have chapter 12 expiring again on New Year's Eve. That is a Y2K problem for agriculture we better be alerted to because Congress is not going to be in session on New Year's Eve to renew chapter 12. I hope that when the Senate considers the House version, we ignore it, and we move with a permanent extension of chapter 12 bankruptcy which I introduced last week and which is currently on the calendar.

As the Senators from West Virginia, New Jersey, and also the Senator from Montana were just speaking about the agricultural crisis, it is that way in agriculture any place in the United States. This is no time to play footsie with chapter 12 being extended for just a 3-month period of time. Those are games that don't need to be played. They don't do justice to agriculture in America, and they do not put the family farmer in the forefront of our policymaking or thinking in Washington.

I want to go to this issue about which Senator TORRICElli spoke—the Senate not invoking cloture on the bankruptcy bill last week.

While this is unfortunate, I think it is important to say a few words in support of the bill outside of the adversarial context and the very political context of the cloture vote. I think it would really be a tragedy if both parties can't come together and deal with this bill, which has such broad support from Senators on both sides of the aisle. It was voted out of committee by a 14 to 4 vote, very bipartisan.

Bankruptcy reform is really all about a return to personal responsibility in a bankruptcy system which actively discourages personal responsibility by wiping away debts on a no-questions-asked basis.

Basic common sense tells you every time a debt is wiped away through bankruptcy, someone loses money. Of course, when somebody who extends credit has that obligation wiped away in bankruptcy, that creditor is forced to make a decision: Should this loss simply be swallowed as a cost of doing

business? Or, do you raise prices for other customers to offset those losses?

When bankruptcy losses are rare and infrequent, lenders may be able to swallow a loss. But when bankruptcies are very frequent and common, as they are today, lenders have to raise their prices to offset losses. For this reason, when Treasury Secretary Larry Summers testified at his confirmation hearing before the Senate Finance Committee, he said that bankruptcies tend to drive up interest rates.

If you believe Secretary Summers, bankruptcies are everyone's problem. Regular, hard-working Americans have to pay higher prices for goods and services as a result of bankruptcies. That is a real problem for the American people, and one which the Senate has an obligation to tackle.

Under our current bankruptcy laws, someone can get full debt cancellation in chapter 7 with no questions asked. If we pass our reform bill, if someone seeking bankruptcy can repay his or her debts, they will be channeled into chapter 13 of the bankruptcy code, which requires people to pay some portion of their debts as a precondition for limited debt cancellation.

The bankruptcy bill, which the Senate will hopefully consider soon, will discourage bankruptcies and, therefore, lessen upward pressure on interest rates and prices. Right now, under present bankruptcy laws, one of the richest captains of industry could walk into bankruptcy court and walk away with his debts erased. Of course, the rest of America will pay higher prices for goods and services as a result. If we pass this bill, higher-income people will be unable to use bankruptcy as a financial planning tool. All Americans will be better off. The message of Senate bill 625 is simple: If you have the ability to pay debt, you will not get off scot-free.

These are good times in our Nation, thanks to the fiscal discipline initiated by Congress, and the hard work of the American people—and more due to the hard work of the American people than what we have done in Congress. We have the first balanced budget in a generation, unemployment is low, we have a burgeoning stock market. Most Americans, except for the American farmers who are in a depression, are optimistic about the future. But in the midst of such prosperity, about one and a half million Americans declared bankruptcy in 1998. Based on filings for the first two quarters of 1999, it looks like there will be just under 1.4 million bankruptcy filings for this year. To put this in some historical context, since 1990, the rate of personal bankruptcy filings has increased almost 100 percent.

Now, I don't think anyone knows all of the reasons—I don't pretend to know either—underlying the bankruptcy crisis. But I think I can talk about what is not at the root of the bankruptcy crisis. I have a chart here that has four smaller charts on it that I think demonstrates it is not the economy that is

driving the crisis. Here we have the high rise in bankruptcies over the last 6 years, a very rapid near 100-percent increase in bankruptcy filings. We have, during that same period of time, a very dramatic drop in unemployment in the country. We have a very sharp rise in the Dow Jones Industrial Average. We have a rise in the average wage of American workers. This shows that it is not the economy that is causing so many bankruptcies.

The economic numbers tell us that the bankruptcy crisis isn't a result of people who can't get jobs; and the jobs that people do have are paying more than ever. So the bankruptcy crisis isn't about desperate people confronting layoffs and underemployment. With the economy doing well and with so many Americans with high-quality, good-paying jobs, we have to look deep into the eroding moral values of some people to find out what is driving the bankruptcy crisis. Some people flat out don't want to honor their obligations and are looking for an easy way out. In the opinion of this Senator, a significant part of the bankruptcy crisis is basically a moral crisis. Some people just don't have a sense of personal responsibility.

It seems clear to me that our lax bankruptcy system must bear some of the blame for the bankruptcy crisis. Just as the old welfare system encouraged people not to get jobs and encouraged people not to even think about pulling their own weight, our lax bankruptcy system doesn't even ask people to consider paying what they owe, particularly when they have the ability to pay. Such a system, obviously, contributes to the fray of the moral fiber of our Nation. Why pay your bills when you can walk away with no questions asked? Why honor your obligations when you can take the easy way out through bankruptcy? If we don't tighten the bankruptcy system, the moral erosion will certainly continue.

The polls are very clear that the American people want the bankruptcy system tightened up. In my home State of Iowa, 78 percent of Iowans surveyed favor bankruptcy reform, and the picture is the same nationally. According to the Public Broadcasting System program *Techno-Politics*, almost 70 percent of Americans support bankruptcy reform.

The American people seem to sense that the bankruptcy crisis is fundamentally a moral crisis. I have a chart that also deals with that. This chart is done by the Democratic polling firm of Penn & Schoen. It talks about the perceptions people have about bankruptcy. You can see here that 84 percent of the people think that bankruptcy is more socially acceptable than it was a few years ago. This is the same polling firm President Clinton uses; so I think this number is very telling, given that it was produced by a liberal polling firm. In my State of Iowa, the editorial page of the Des Moines Register has summed up the

problem that we have with the bankruptcy system by stating that bankruptcy "was never intended as the one-stop, no-questions-asked solution to irresponsibility." I totally agree.

I hope we can soon get to the bankruptcy bill, which has so much support in the Senate. As my colleague who worked so closely with me on this legislation, the Senator from New Jersey, has said, we are committed to bringing this bill to a vote this year and getting it done in a fashion that will show the bipartisanship that has operated throughout this year to bring us a 14-4 vote out of the Senate Judiciary Committee, to duplicate that wide margin on the floor of the Senate, to send a clear signal to people who use bankruptcy as financial planning that if you have the ability to pay, you are never going to get out of paying what you have the capability of paying. That is good for our country, it is good for the economy and, most important, it is good for the pocketbooks of honest Americans. Bankruptcies cost the average American family to the tune of \$400 a year. That's not fair to the American men and women working to pay taxes and make a better life to have to pay \$400 more per year because somebody else isn't paying their debts.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent morning business be closed.

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

MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2000

The PRESIDING OFFICER. Under the previous order, the clerk will report the resolution by title.

The legislative assistant read as follows:

A joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2000, and for other purposes.

Mrs. BOXER. Mr. President, will the Presiding Officer explain what is before the Senate.

The PRESIDING OFFICER. House Joint Resolution 68 is before the Senate.

Mrs. BOXER. Mr. President, as I understand it, that resolution is the continuing resolution that will keep the Government running for the next 3 weeks based on the 1999 spending figures; am I correct?

The PRESIDING OFFICER. The Chair will not interpret the content of the legislation. However, that is the topic of the resolution.

Does the Senator seek recognition?

Mrs. BOXER. I do. I yield myself such time as I may consume from the Democratic leader's time.

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

Mrs. BOXER. Mr. President, I think we have reached a moment on the floor of the Senate that ought to be marked. Very sadly, it is a moment of failure for this Republican Congress, a moment of failure after promising a moment of success.

Why do I say that? There were three promises made by the Republican leader to the people of the United States of America. The first promise was that the spending bills, all 13 of them, would pass on time and within the context of the balanced budget; the second promise was that the Republicans would not touch the Social Security trust fund to pay for their programs; the third promise was that they would stay under the spending caps that were approved before.

In my opinion and in the opinion of many others, all three of those promises are being broken. In the lead story in the New York Times today, we read about the shenanigans going on in trying to get this budget accomplished.

I have proudly served on the Budget Committee in the Senate for 7 years; in the House, I served on the Budget Committee for a total of 6 years. I know there have been times when neither side has performed as it should. However, I never, ever remember it being this bad. I never, ever remember it being this chaotic. It is very sad because the rest of the country is doing great fiscally. This is the best economic recovery we have had. In my lifetime, these are the best statistics I can remember for low unemployment, low inflation, high home ownership. Things are going really well. Yet in that context, when things are going really well, we cannot get our act together around here. I have to say it is a failure of Republican leadership.

What is before us today is a bill that will continue the functions of Government for the next 3 weeks because, out of the 13 spending bills, only 1—only 1—has received a signature from this President. Therefore, we have to have a continuing resolution or the Government will shut down. I understand that. But let me simply say this. I think the reason my Republican friends are in so much trouble—and I hope some of them will come to the floor because this is their continuing resolution; I assume they are on their way so we can have a little bit of a debate here—I think the reason the Republicans are in so much trouble is, they have locked out the President, they have locked out the Democrats, and they are coming up with plans that are out of touch with reality and with what the American people want.

Let me give an example. Everyone around here says children are a priority and education is a priority. Yet the last bill my Senate friends have looked at in the Appropriations Committee, the one they saved until last, is education. HHS—Health and Human Services—includes education.

Why do I say the Republicans are out of step with the American people? I say it based on three simple facts.