action, and the Senate then proceed to the nomination of Linda Morgan and, following that confirmation vote, the President be immediately notified and the Senate then resume executive session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I announce for the leader that in light of this agreement, there will be three rollcall votes between noon and 1:00 p.m. tomorrow.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. GRASSLEY. Mr. President, we can proceed, then, to our adoption of some amendments on which we have agreement.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENTS NOS. 1722, AS MODIFIED; 2530, AS MODIFIED; 2546; 2749; 2750; 2758, AS MODIFIED; 2768; 2772, AS MODIFIED; 2528; 2664; AND 2665, EN BLOC

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the following amendments be considered en bloc, and modifications be considered agreed to, where noted, that the amendments be agreed to, en bloc, and the motions to reconsider be laid upon the table, all without intervening action or debate.

I will give you the amendment Nos.: Amendment No. 1722 by Mr. ROBB, as modified; amendment No. 2530 by Mr. BYRD, as modified; amendment No. 2546 by Mr. BENNETT; amendment No. 2749 by Mr. FEINGOLD dealing with PACs; amendment No. 2750 by Mr. FEINGOLD dealing with FEC fine; amendment No. 2758 by Mr, ROTH and Mr. MOYNIHAN, as modified—I will send that modification to the desk—amendment No. 2768 by Mr. LEVIN; amendment No. 2772 by Mr. LEVIN, as modified—that modification will be sent to the desk—amendment No. 2528 by Mr. LEAHY; amendment No. 2664 by Mr. KOHL; and amendment No. 2665 by Mr. KOHL. I send the modifications to the desk.

Mr. LEAHY. Mr. President, if the Senator will yield, the last two are by the distinguished Senator from Wisconsin, Mr. KOHL; is that right?

Mr. GRASSLEY. Yes.

Mr. LEAHY. Of course, I have no objection.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The amendments (Nos. 1722, as modified; 2530, as modified; 2546; 2749; 2750; 2758, as modified; 2768; 2772, as modified; 2528; 2664; and 2665) were agreed to as follows:

AMENDMENT NO. 1722, AS MODIFIED

(Purpose: To provide that duties of a trustee shall include providing certain information relating to case administration, and for other purposes)

On page 51, strike line 24 and insert the following:

section (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

AMENDMENT 2530, AS MODIFIED

(Purpose: To make an amendment with respect to credit card applications and solicitations that are electronically provided to consumers)

At the appropriate place, insert the following:

SEC. ___. 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.''.

AMENDMENT NO. 2546

(Purpose: To amend certain banking and securities laws with respect to financial contracts)

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 2749

(Purpose: To clarify the bankruptcy jurisdiction over insolvent political committees)

At the appropriate place, insert the following:

SEC. ___. 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.''.

AMENDMENT NO. 2750

(Purpose: To make fines and penalties imposed under Federal election law nondischargeable)

At the appropriate place, insert the following:

SEC. ___. 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;''.

AMENDMENT NO. 2758, AS MODIFIED

(Purpose: To provide for tax-related bankruptcy provisions)

Beginning on page 181, strike line 20 and all that follows through page 203, line 17, and insert the following:

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.''.

On page 268, line 13, strike ''1231(d)'' and insert ''1231(b)''.

On page 280, strike lines 16 through 19.

AMENDMENT NO. 2768

(Purpose: To prohibit certain retroactive finance charges)

At the appropriate place, insert the following:

SEC. ___. 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.''.

AMENDMENT NO. 2772, AS MODIFIED

(Purpose: To express the sense of the Senate concerning credit worthiness)

At the appropriate place, insert the following:

The Board of Governors of the Federal Reserve shall report to the Banking Committee of Congress within 6 months of enactment of this act as to whether and how the location of the residence of an applicant for a credit cared is considered by financial institutions in deciding whether an applicant should be granted such credit card.

AMENDMENT NO. 2528

(Purpose: To ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses)

On page 7, line 22, insert after the period the following:

''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.''

AMENDMENT NO. 2664

(Purpose: To exclude employee benefit plan participant contributions and other property from the estate)

On page 124, insert between lines 14 and 15 the following:

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.

AMENDMENT NO. 2665

(Purpose: To clarify the allowance of certain postpetition wages and benefits)

On page 124, insert between lines 14 and 15 the following:

SEC. 322. 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;''.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I compliment the distinguished Senator from Iowa. He and I and the distinguished Senator from Utah, Mr. HATCH, and the distinguished Senator from New Jersey, Mr. TORRICELLI, have been working to clear amendments throughout the day.

Earlier today we cleared—what?—12, I believe, on this. We just cleared another large number. I mention this because Senators are coming to the floor offering amendments and clearing them. I commend those Senators who have been moving forward.

I also thank the distinguished senior Senator from Connecticut who has withheld his own debate so we could do this.

I thank him for that and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2532, AS MODIFIED

(Purpose: To provide for greater protection of children, and for other purposes)

Mr. DODD. Mr. President, I call up amendment No. 2532 and ask unanimous consent for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, I send a modification to the desk to that amendment.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. DODD. Mr. President, for those who are interested in following the amendment process, the modification is purely technical in nature to what I earlier offered. So it is just technical corrections.

Mr. President, I am going to use some charts on this. I call up this amendment, as modified, and ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Ms. LANDRIEU, and Mr. KENNEDY, proposes an amendment numbered 2532, as modified.

Mr. DODD. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) The expenses referred to in subclause (I) shall include—

''(aa) taxes and mandatory withholdings from wages;

''(bb) health care;

''(cc) alimony, child, and spousal support payments;

''(dd) expenses associated with the adoption of a child, including travel expenses, relocation expenses, and medical expenses;

''(ee) legal fees necessary for the debtor's case;

''(ff) child care and the care of elderly or disabled family members;

''(gg) reasonable insurance expenses and pension payments;

''(hh) religious and charitable contributions;

''(ii) educational expenses not to exceed $10,000 per household;

''(jj) union dues;

''(kk) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

''(*ll*) utility expenses and home maintenance expenses for a debtor that owns a home;

''(mm) ownership costs for a motor vehicle, determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

''(nn) expenses for children's toys and recreation for children of the debtor;

''(oo) tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

''(pp) miscellaneous and emergency expenses.

On page 83, between lines 4 and 5, insert the following:

SEC. 225. TREATMENT OF TAX REFUNDS AND DOMESTIC SUPPORT OBLIGATIONS.

(a) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (a)(5)(B) by inserting ''except as provided under subsection (b)(7),'' before ''as a result''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

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

''(6) any—

''(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year; and

''(B) advance payment of an earned income tax credit under section 3507 of the Internal Revenue Code of 1986;

''(7) the right of the debtor to receive alimony, support, or separate maintenance for the debtor or dependent of the debtor;

''(8) refund of a tax due to the debtor under a State earned income tax credit; or

''(9) advance payment of a State earned income tax credit.''.

(b) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(c) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, as amended by section 224 of this Act, is amended in paragraph (10)—

(1) in subparagraph (C), by adding ''or'' after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking ''(E)'' and inserting ''(D)''.

On page 92, line 5, strike ''personal property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 93, line 19, strike ''property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 97, line 10, strike ''if'' and insert ''to the extent that''.

On page 97, line 10, after ''incurred'' insert ''to purchase that thing of value''.

On page 98, line 1, strike ''(27A)'' and insert (27B)''.

On page 107, line 9, strike ''and aggregating more than $250'' and insert ''for $400 or more per item or service''.

On page 107, line 11, strike ''90'' and insert ''70''.

On page 107, line 13, after ''dischargeable'' insert the following: ''if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor''.

On page 107, line 15, strike ''$750'' and insert ''$1,075''.

On page 107, line 17, strike ''70'' and insert ''60''.

Beginning on page 109, strike line 21 and all that follows through page 111, line 15, and insert the following:

SEC. 314. HOUSEHOLD GOOD DEFINED.

Section 101 of title 11, United States Code, as amended by section 106(c) of this Act, is amended by inserting before paragraph (27B) the following:

''(27A) 'household goods'—

''(A) includes tangible personal property normally found in or around a residence; and

''(B) does not include motor vehicles used for transportation purposes;''.

On page 112, line 6, strike ''(except that,'' and all that follows through ''debts)'' on line 13.

On page 112, line 19, strike ''(2),''.

On page 112, line 21, strike ''(3)'' and insert ''(2)''.

On page 112, line 24, strike ''(4)'' and insert ''(3)''.

On page 113, between lines 3 and 4, insert the following:

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (c), by inserting ''(14A),'' after ''(6),'' each place it appears; and

(2) in subsection (d), by striking ''(a)(2)'' and inserting ''(a) (2) or (14A)''.

On page 263, line 8, insert ''as amended by section 322 of this Act,'' after ''United States Code,''.

On page 263, line 11, strike ''(4)'' and insert ''(5)''.

On page 263, line 12, strike ''(5)'' and insert ''(6)''.

On page 263, line 13, strike ''(6)'' and insert ''(7)''.

On page 263, line 14, strike ''(4)'' and insert ''(5)''.

On page 263, line 16, strike ''(5)'' and insert ''(6)''.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself and Senator LANDRIEU, Senator KENNEDY, and others who may be interested in joining in this particular effort.

Mr. President, this is an amendment which I would hope would be adopted. I am sorry in a sense it is not being accepted because it goes to the very heart of what many of us have talked about and tried to accomplish over the years, since bankruptcy laws were first modernized and adopted almost a century ago in 1903. This amendment deals with families, with spouses, with child support issues, and where they come in the context of priorities when it comes to discharging responsibilities under the bankruptcy act.

It is no great secret that in 1998, we learned that as much as $43 billion in child support payments remained uncollected in the United States. It is a staggering sum of money and makes a huge difference to children growing up under adverse circumstances as they are. When you exclude the ability to receive the financial support necessary to make ends meet, the problem becomes even more pronounced.

I raise that because last year this body voted on important legislation that would provide needed reform to our bankruptcy laws, while at the same time ensuring that children and families would remain unhindered in their efforts to collect domestic support from bankrupt debtors.

Since 1903, our Nation's bankruptcy code has been guided by the firm principle that women and children must be first in the distribution line of available assets during bankruptcy proceedings. For almost a century, debt owed to children and families has been nondischargeable. Thus, if a head of household fails financially, whatever remaining assets he has could be used to spare his spouse or ex-spouse and his children from impoverishment. We do this because those who are most vulnerable in our society deserve the most protection.

With this principle in mind, this body recently added another protection for domestic support obligations in bankruptcy. The Bankruptcy Reform Act of 1994 made children and families a priority unsecured creditors. This enabled women and children to receive payments on their claims before other creditors.

Today's bill, the Bankruptcy Reform Act of 1999, would fundamentally alter this delicate balance achieved after almost a century of jurisprudence. We are altering the bankruptcy landscape for the benefit of the credit card industry without understanding what the consequences for families will be.

Women and children will be disproportionately affected by this legislation, unless it is amended. Whether as debtors filing for bankruptcy themselves or as creditors, three quarters of a million women will be affected this year by the bankruptcy system, and it is estimated that as many as 1 million women will be affected in the coming year.

I recognize the precipitous rise in bankruptcies in the last few years. It is a problem that needs to be dealt with. I agree with those of my colleagues who think the law needs to be reformed and tightened up. I also agree with HENRY HYDE, Chairman of the House Judiciary Committee, that it is possible to enact legislation that is highly favorable to the credit card companies and tightens the laws without depriving debtors and their families of reasonably necessary living expenses.

As the legislation is currently drafted, the credit card industry is protected. Unfortunately, families are not, in my view. Maybe that is why all the major family and children advocacy groups presently oppose this bill. Yet with the adoption of the amendment that Senator LANDRIEU and I have offered, we think we can bring substantial support to this bill.

I have serious concerns about the bill, as it is presently drafted, because of its potential harm to children and to families. This bill presents obstacles to families both before, during, and after bankruptcy that leave the alarming potential for family support income to be dissipated and misdirected to credit card companies rather than to the families who need that help.

First, I am greatly concerned about the means test, which requires the trustee in bankruptcy to review all individual Chapter 7 cases for ability to pay debts under a rigid IRS formula devised originally for delinquent taxpayers, now to be applied in bankruptcy proceedings. These standards neither take into account differences in the cost of living from region to region nor do they ascribe rational expenses to individual families. As such, the use of these standards will deprive children and families of reasonably necessary living expenses.

Additionally, because the means test increases the potential for dismissing chapter 7 cases, this bill channels many debtors into 5-year chapter 13 repayment plans, even though we know for a fact two-thirds of such plans fail today. What will families live on during this time?

I am also concerned about the provisions of the legislation that make certain credit card debt nondischargeable. While the recent family support provisions added to the legislation are positive improvements, they have not cured the problems caused by other provisions of the bill which give greater collection rights to credit card lenders and fewer, in my view, to families and children.

This bill elevates credit card debt to a presumed nondischargeable status. If a debtor purchases items or services on credit from a single creditor within 90 days of bankruptcy and such items exceed $250 in value, these items would be presumed luxuries. This chart to my right explains it.

Under current law, food, medicine, and clothing equal necessities. Under present law, if the amount is less than $1,075 per creditor and incurred within 60 days of the bankruptcy petition, then they are protected.

Under the law as presently drafted, without amendment, food, medicine, and clothing are considered luxuries, if the amount is greater than $250 and incurred within 90 days of the bankruptcy petition. So if you have $251 of food, medicine, and clothing expense and it is incurred within the last 90 days, then you have to go to court and spend the money to prove these are not luxuries: food, medicine, and clothing.

This point is one I find stunning in its potential implications. Let me emphasize, under current law, food, medicine, and clothing are considered necessities. If the amount is in excess or less than $1,075 and incurred within 60 days, there is a presumption those are necessities. That is considered, by today's dollars, enough to accommodate a family.

Here we are now saying food, medicine, and clothing, if it is in excess of $250 within 90 days, that is a luxury. So $251, you have to go to court. If you are a debtor and you are a woman with a family you are raising on your own, you go to bankruptcy court. You have to come up with the money now to prove because it is a rebuttable presumption that you have to overcome if it is $251. By the very factor that you are in bankruptcy court, how many resources are you going to have to hire a lawyer to go in and prove that $251 were necessities and not luxuries. If you are a creditor in this situation, a family, then obviously the problem is also difficult.

If you go to a Kmart and buy clothes for your children, necessities they may need, that is considered a luxury if it is $251. A judgment could be entered by default, and then the debt survives. If you are a single woman as a creditor, then you must wait until your ex-husband tries or does not try to defend a similar purchase. And if he is unsuccessful, there will be less money for him to pay child support. So on either side of the equation, if you are a

woman raising children on your own, either as a debtor or a creditor, this places tremendous burdens on the family.

If this stays in the bill as is, this is a huge blow to average families. There is no consideration of region of the country. I don't care where you live in the United States. Imagine some parts of the country where $251 in 90 days, that is 3 months, if you have three children, $251 is a luxury? You have to go to court and hire a lawyer to prove it wasn't a luxury. We are reforming the bankruptcy laws to try to protect people and families from hardships they can incur? I don't understand this.

If this is sustained in the bill, I urge the President to veto this legislation regardless of what else is here. This would be a huge blow to families to allow this to persist in the legislation.

The bill's proponents will tell us that this is really not the case. Child support is still the No. 1 priority. The reality is that this change will place kids and families first in line for nothing, since such assets are available to support families in less than 1 percent of the cases.

In addition, this change may not place families above lenders if the lenders say their claims are secured by the debtor's property. For the first time, we have allowed these heretofore unsecured creditors to get into the bankruptcy courthouse. Currently, children and family support recipients, taxes, student loans were nondischargeable debts. For the first time in a century the proposed legislation would bring into this unique category these other creditors, i.e. credit card companies, who will make the competition for scarce assets that much fiercer.

These creditors have historically been unsecured because they have received the benefit of high interest. Now they are becoming effectively secured creditors. Most household finance groups secure items of property with agreements. So if you have a television set, the household finance company will have a security interest in the TV obligation, and the company is a secured creditor. The same thing occurs with reaffirmation agreements, and indeed the bill increases the potential for these agreements. Creditors can ask debtors to reaffirm debts of have their property—often of little value—repossessed. These items may be of little value to creditors, but of tremendous value to families, enabling them to continue to survive with the bare necessities. And they too will be elevated into the same sort of status that we have had for children and families, which I think, again, goes beyond anything I think we intended.

With those concerns in mind, the amendment Senator LANDRIEU and I and Senator KENNEDY have offered tries to address these concerns in the bill. Let me address each of the provisions very quickly and turn to my colleague from Louisiana for any further comment she would like to make on this amendment.

First of all, this amendment would modify the means test to provide greater flexibility and reasonableness when calculating the ability to pay. Allowable expenses would include family support, expenses associated with adoption of a child, child care, medical expenses, caring for elderly members of the family, education expenses, and other such critical areas that have been identified as those most families must make. Such expenses should be considered not ignored by the bankruptcy courts.

Second, my amendment will ensure that support payments and other funds intended for the current needs of children do not become the property of the bankruptcy estate with the corollary potential of being distributed to creditors. Money for kids should go to kids, not to creditors.

This amendment will also adopt the House definition of household goods, which enables debtors to keep, during bankruptcy, personal property normally found in and around the home, excluding automobiles. This will ensure that in a bankruptcy children and families are able to keep, without fear of repossession, certain household goods that typically have no resale value, such as toys, swing sets, VCRs, and other items used by parents to help raise their children.

Finally, this amendment will ensure that debtors are not forced into bankruptcy court to seek to prove that food, diapers, school uniforms, toys, and the like are not luxury goods. It would do this by providing that items purchased with a credit card would be nondischargeable only if they were purchased within 70 days, not 90 days, of bankruptcy, have a value of $400 or more per item, and require the creditor to prove at a hearing that the items were not reasonably necessary for the maintenance and support of the debtor and her dependents—shifting the burden, if you will.

Mr. President, I hope that these efforts will win broad support here as we try to again go back to what we have sustained for almost a century, recognizing the modern world we live in and the needs of families trying to see their way through the difficult period of a bankruptcy, which we are going to make far more difficult now for people to take under this law.

I am not opposed at all to the idea of trying to restrain the proliferation of bankruptcy in the country. But as we are doing that, let's not do so in such a way that it places an undue hardship and burden on families trying to make ends meet and trying to keep themselves together. Let's go back to the notion that, since 1903, the bankruptcy code has protected families.

When it comes to families, and women in particular, who could be so adversely affected by changing the means test here, placing the legal burdens on a family to go out and hire a lawyer to prove that $251 in goods over 90 days for a family is not a luxury item—nobody needs to be educated here about who has greater power. Credit card companies have teams of lawyers; they hire them on a permanent basis. But if you are some family out there who has gone through the agony of a bankruptcy, how many lawyers will take on the cases for $251 and try to prove that some items weren't luxury items? How many lawyers want to take on those cases? How long can you stay in court? How many motions can you argue back and forth? Such families are truly at a disadvantage. I am not talking about the poorest families in America; I am talking about middle income, hard-working families that find themselves in the dreadful position of all of a sudden having to readjust their lives because they have been hit by a financial disaster.

I also know there are people out there who abuse the system, who are scam artists, who game the system and use the bankruptcy laws to take advantage of a situation. I know they exist. I am as angry as anybody else that there are people like that out there. But I also happen to believe that the overwhelming majority of people are not scam artists; they are good people, honest people, and they are trying to keep their families together.

I noted last night that during this wonderful economic time we have been having, the top 20 percent of income earners have enjoyed a 115 percent increase in earning power. The middle 20 percent has had a 9 percent increase. The bottom 20 percent has had an 8 percent decline in earning power. While we all rave about the great economy, for middle income families and less than middle income families the times have still been tough.

These are not evil people. The fact that they end up in a financial mess doesn't mean that their children ought to pay a price for it. If you want to be angry at the parent, don't take it out on a child who was born into a family that may face these kinds of financial crises. To say to them you are not going to be able to have access to basic household goods, things like toys, a VCR, and other basic necessities of raising a family, I think that goes too far. It is overreaching and it is unnecessary and it is harmful, and it hurts people. I don't know of anybody in this Chamber who wants to be a party to that.

For those reasons, Mr. President, the Senator from Louisiana and I, and others have offered this amendment. Hopefully, we can get broad and wide support for it to restore what, for 100 years, was basic policy. Families and children come first. Those who are the most vulnerable deserve the most protection. We ought to see to it in this bill that that fundamental principle is not changed. Whatever else we are doing with this law, children and families still come first in our minds, and we are not going to allow them to be hurt, intentionally or unintentionally, by provisions of this bill, as presently

written, which would do just that. For those reasons, we offer this amendment for the consideration of the Senate and hope our colleagues will support it.

The PRESIDING OFFICER. The Senator from the great State of Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I rise in support of this amendment, which attempts to enhance a bill that is intended to do some good things to stop fraud and abuse. But this amendment attempts to take that bill and make it work for everyone and continue the tradition of protecting our children and our families, which is so important.

I thank the Senator from Connecticut for his great leadership and the way he has articulated this issue so well. Neither one of us is on the committee that considered this piece of legislation. I know there were many good Senators from the Republican side and many good Senators from the Democratic side who have come at this with the right intention—to eliminate fraud and abuse. But I thank him for his leadership because, frankly, without this amendment, this bill falls very short of those good intentions.

We, in Louisiana—I know the people in Kansas are like this, too, and I know the people in Connecticut are like this—believe in paying our debts. We do not like freeloaders. We do not like people who are reckless with their finances, although every now and then sometimes we might be, in small instances or large. We do not like that. It is not a value we hold. We believe in being fiscally responsible. We believe in taking care of your own. We believe in taking care of our debts.

So I certainly want to support a bill that would clamp down on fraud and abuse. If it was a poor person who was using fraud and being abusive of the system, they would certainly have to follow the same rules as a middle-class family or as the wealthiest person in my State. I am not asking, and neither is Senator DODD, for any special privilege for any man or any woman. We do ask for special consideration for children. They are not the ones who are ''guilty.'' But we ask no special provision.

This bill as it is currently written goes much too far. I also join Senator DODD in asking the President, if this amendment is not adopted—and I do not know; it may be I will join him in asking the President to veto this bill because this would be a terrible blow to families, to children, and particularly single parents, many of whom are women but not all. There are some fathers who have custody of their children—one, two, three or four—who would fall under the same draconian terms of this bill.

There is no denying, as I said, that there is need for reform of the current bankruptcy law and practice. However, it is important the final bill accurately reflect the needs of those most affected by bankruptcy. This amendment we offer does just that. It has four parts. I am going to speak briefly about only one.

Over the past two decades we have witnessed a 400-percent increase in the use of bankruptcy courts in this country. That figure is alarming. That is why we are trying to see what is causing that and trying to offer some solutions. The figures show a rising number of those claiming bankruptcy, however, are single women. In fact, single women comprise the fastest growing group to file bankruptcy, surpassing men and married couples.

In 1999, more than a half-million single women will file for bankruptcy, 10 times the number who filed in 1981. Despite the overwhelming number of women who find themselves in this untenable state of economic instability, S. 625, as written, does not at all reflect the needs of this population of debtors. This amendment simply revises necessary sections of the bill so it is more realistic, more flexible, and more reasonable in dealing with women and their children, single women and their children—sometimes one child, sometimes two, sometimes three, and in a few cases more than that.

Our amendment does not ask that women with children be treated any differently under the law. It simply ensures the standards which apply to all debtors be sensitive to the very different situations which cause a person to file for bankruptcy. So, in our zest to curb the abuse of some, the rights and needs of others should not be ignored.

S. 625, as currently written, makes it significantly easier for credit card debt to be considered nondischargeable, which is necessary in ending fraud and abuse. However, I think this bill inadvertently puts the claim of credit card companies at a distinct advantage over single mothers or single fathers who are trying to claim their child support. In most cases that is going to be a single mother.

I concede the language clearly is written in the bill that states women and children are the ''first in priority.'' The practical reality, as the Senator from Connecticut has pointed out, as it is currently drafted, is they are first in line for nothing. Given their circumstances of bankruptcy and their lack of resources, how would they ever find the money to hire a lawyer or get the professional services they need to compete in this legal, cumbersome, complicated, time-consuming, and actually spirit-breaking system we are attempting to create here.

Let me demonstrate with an example. I think if people can see an example they might understand this. For the purposes of this argument, let's take Doris, who is a divorced mother of three children ranging in age from 3 to 13 years old. She works at a job earning more than minimum wage but not much. Her ex-husband is 5 months behind in child support—not atypical, given the millions and billions of dollars that are owed. If this bill passes, this is what will happen.

In September of this year, she goes to Kmart where she purchases food, clothing, and other essential items for her family totaling $260. I go to Kmart and Wal-Mart. That is not an unreasonable bill. It is hard to support a family with food and clothing and essentials for much less than that. Actually, I spend more than that in a month. But she spends only $260, trying to be frugal.

In November, she comes to grips with the reality that her income will not get her through the winter. She files for bankruptcy. Under the bill this Senate is about ready to pass, she is going to have to hire a lawyer and go to court to prove that her Kmart purchases were necessary for her family and were not made in an attempt to defraud the system.

I could not under any circumstances vote for a bill that would ask any of my constituents who live in Louisiana, or any who live in Connecticut or any place, to hire a lawyer to go to court to claim that the orange juice, milk, diapers, cookies, some snacks for school, maybe part of a school uniform, is a luxury item. When they come knocking at my door, saying, Senator, why does the law say this, I am going to say we made a terrible mistake. But I didn't make the mistake because we were on the floor trying to explain this to people. Hopefully, they are listening.

Our amendment makes a simple change to this process. Rather than putting the burden on proving the necessity of the purchase on a single mother who has no money, a lot of heartache, a lot of children to take care of, it just puts the onus on the credit card companies to prove these purchases were unnecessary. As the Senator has pointed out, they already have lawyers; they are a credit card company. They have accountants and lawyers to see, perhaps, if something does look amiss. Perhaps if the charges are quite large, they most certainly should be able to pull them into court and make sure the judge would take the proper action.

Credit card companies, as I said, have these investigators to check fraud. The people in my State of Louisiana, in that situation, I promise you, they do not.

Under our system of justice, a person is innocent until proven guilty. Under S. 625, as it stands right now, a woman is guilty of fraud unless she can prove her innocence. This is not what we want to do. I am positive this is not what this President of the United States wants to support. It is unacceptable. If our amendment does not get on this bill, I am going to vote against it. There may be some other amendments that we need to put on, but this clearly is one.

I thank Senator DODD for his leadership in this piece of legislation and will only add this to this discussion: One of the wonderful things I like about being a Senator is I learn something new

every day. I guess my colleagues here feel that way, and I hope the staff does, because it is one of the most interesting things about this job.

I got, today, the gross monthly income schedule for the IRS. I have never had to file for bankruptcy. I don't think I have ever owed any taxes where I had to go according to this schedule. So this would be the first time I will have seen something like this. I am not a lawyer.

I want to say how surprised I am that our Government would have a schedule that basically says if you make $830 or less a month, and you owe taxes to the Federal Government, that you get to eat $170 worth of food. But if you are wealthy and you owe taxes to the Government, you get to eat $456 worth of food every month.

If you have children, if you have one child who happens to be in diapers, you get to buy $71 a month at the store. But if you are wealthy and you have a child—not wealthy but you make $5,000 a month, which would be fairly wealthy—and have one child, you get to buy almost $350 worth of diapers and apparel or services at the store.

My husband and I have a 2-year-old. I spend more than $40 a month on diapers alone—diapers. I don't want anyone in my State to have to hire a lawyer to prove that the expenses they have on their credit card to purchase food or clothing or diapers or milk or formula for their children is not a luxury.

I urge Members who might not have ever looked at this schedule that indicates, when you owe taxes, how much you get to keep—it has no mention of children, no educational expenses. I guess the IRS just assumes children should stop going to school while their parents pay back their taxes.

This is the same schedule I think the Senator from Connecticut has pointed out. I wish I had it blown up because I think people in America would have a hard time believing this.

Mr. DODD. Will my colleague yield?

Ms. LANDRIEU. I will.

Mr. DODD. This is a question for my colleague. The relevance of this is that under the bill as presently written, this is the schedule. This is not interesting subject matter because it is an IRS schedule for tax purposes. This is what has been adopted as part of the bankruptcy bill. So this is your schedule, this is what you know you are going to be limited to; is that correct?

Ms. LANDRIEU. Correct. That is my understanding. Under the current bill, we are adopting an IRS schedule that, in my opinion—and I imagine a majority of people in Louisiana will feel that way—this is an inappropriate schedule for that purpose. It most certainly is an inappropriate schedule for bankruptcy since nowhere on the schedule does it even mention the word ''child'' or children's needs. It does not mention medicine. It does not mention some of the essential things, as the Senator from Connecticut has pointed out.

Mr. DODD. If my colleague will further yield, nor does it mention any geography distinction. This is a standard price whether you live in Louisiana, Connecticut, California, New York City, Washington, DC—this is the same schedule for every person, regardless of where they live in the country; is that correct?

Ms. LANDRIEU. That is correct. As we know, the cost-of-living escalates and is very different from place to place and region to region. This chart is quite deficient.

After this debate, I will be looking at ways the IRS should improve their own schedule.

For the purposes of this debate, we most certainly do not want to take a schedule that is flawed for the purposes of collecting taxes and then apply it to a bankruptcy which is an equally difficult situation in which our families find themselves.

In conclusion, I realize there is fraud and abuse, and I will be the first one to step up and vote for a bill that will clamp down on it. No one deserves special privileges, whether they are poor, middle income or wealthy. This bill, as written, goes too far, and we will be sorry if we do not adopt some amendments to fix it and make it more fair. Let us fight hard for our families. Many of them are having a tough time already. Let's not have the children pay the price for us trying to expedite a bill that does not work for them or for their parents. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. The Senator from Louisiana may want to do this. It is worthwhile. I ask unanimous consent that the IRS schedule be printed in the RECORD so our colleagues have the benefit of looking at the rigidity of this schedule and the paucity of information and items one would normally, reasonably conclude a family might need in order to sustain itself during a period of bankruptcy, such as we suggested.

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

COLLECTION FINANCIAL STANDARDS—CLOTHING AND OTHER ITEMS—IRS

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
One Person:								
Food	170	198	214	257	270	325	428	456
Housekeeping supplies	18	20	21	26	27	29	35	43
Apparel and services	43	52	75	120	127	129	168	334
Personal care products and services	14	21	23	24	30	37	42	58
Miscellaneous	100	100	100	100	100	100	100	100
Total	345	391	433	527	554	620	773	991

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
Two Persons:								
Food	228	277	351	365	424	438	515	635
Housekeeping supplies	23	27	28	40	46	51	57	74
Apparel and services	71	72	98	121	128	167	202	335
Personal care products and services	19	24	28	34	46	40	58	66
Miscellaneous	125	125	125	125	125	125	125	125
Total	466	525	630	685	769	830	957	1,235

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
Three Persons:								
Food	272	326	390	406	444	488	545	737
Housekeeping supplies	24	28	29	42	47	55	58	77
Apparel and services	110	114	134	143	175	205	206	368
Personal care products and services	23	28	34	41	47	50	59	67
Miscellaneous	150	150	150	150	150	150	150	150
Total	579	646	737	781	863	948	1,018	1,393

Item	Gross Monthly Income—						
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829
Four Persons:							
Food	374	376	406	416	472	574	629
Housekeeping supplies	36	37	38	46	49	57	60
Apparel and services	114	145	146	147	179	206	244
Personal care products and services	27	29	35	46	49	51	62
Miscellaneous	175	175	175	175	175	175	175
Total	726	762	800	830	924	1,063	1,170

Item	Gross Monthly Income—						
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829
More Than Four Persons:							
For each additional person, add to four-person total allowance	125	135	145	155	165	175	185

Mr. DODD. Lastly, as I mentioned, virtually all the advocacy groups involved with children and families are in support of this amendment. There is a letter that comes from many of them, including the YWCA, Women Work, Women Employed, Older Women's League, Equal Rights Advocates, who issued a nice letter in support of this.

The Leadership Conference on Civil Rights also has a letter in support of this amendment, along with several other amendments. It specifically mentioned this amendment. I ask unanimous consent both of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 1999.

DEAR SENATOR: The undersigned women's and children's organizations write to urge you to support Senator Dodd's amendment to S. 625, the ''Bankruptcy Reform Act of 1999,'' to protect income dedicated to the support of children and families.

S. 625 puts economically vulnerable women and children—those who are forced into bankruptcy, and those who are owed support by men who file for bankruptcy—at greater risk. By increasing the rights of many creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up a competition for scarce resources between parents and children owed child support and commercial creditors both during and after bankruptcy. And single parent facing financial crises—often caused by divorce, nonpayment of support, loss of a job, uninsured medical expenses, or domestic violence—would find it harder to regain their economic stability through the bankruptcy process. The bill would make it harder for these parents to meet the filing requirements; harder, once in bankruptcy, to save their homes, cars, and essential household items; and harder to meet their children's needs after bankruptcy because many more debts would survive.

Senator Dodd's amendment would address several of the problems the bill would create for women and their families.

The means test provision would reduce some of the harsh and arbitrary barriers to accessing the bankruptcy process that are part of S. 625. S. 625 requires that a rigid means test, devised by the IRS for use with delinquent taxpayers, be applied to individuals and families that file for bankruptcy under Chapter 7 liquidation. The test is used to determine whether the debtor can repay some debt and will be forced into a Chapter 13 repayment plan. The Dodd amendment would make the test more reasonable as applied to families with children by including more family expenditures as allowable expenses, including costs of child care and the care of elderly and disabled family members, health care expenses; spousal and child support payments; expenses associated with adoption; and expenses for children's toys, among others.

The provision on household goods and property of the estate would provide more protection for essential household goods and income intended for the support of children during bankruptcy. In S. 625, only a very limited and specific list of household goods are protected from repossession or threat of repossession: one radio, one television, one VCR per household. Tape players and CD players are not on the list. A personal computer is protected, but only if it is used primarily for minor children; older children who use a computer for research and parents who do some work at home are out of luck. Senator Dodd's amendment, like the household goods provision in the House-passed bill, would allow each situation to be judged on a case-by-case basis, and would allow debtors to keep tangible property normally found in and around a residence.

The provision concerning property of the bankruptcy estate (assets that may be distributed to creditors during the bankruptcy) would ensure that child support payments, and Earned Income Tax Credit refunds available to low-income working families, are not subject to the claims of creditors.

The nondischargeability provision of Senator Dodd's amendment would reduce the competition between credit card companies, and women and children owed support, after bankruptcy. Under current law, child support and alimony are among the few debts that are not dischargeable in bankruptcy. S. 625 would elevate many credit card debts to nondischargeable status. This would increase the competition between credit card companies and women and children owed support after bankruptcy, and make it harder for hard-pressed families with children to get a ''fresh start'' through the bankruptcy process. S. 625 provides that if a person, within 90 days of bankruptcy, purchases items on a single credit card that total $250, they are presumed to be nondischargeable. S. 625 does give the debtor the right to show that the charges were for necessities, not for luxuries. But debtors will have to bear the burden and expense of going into court to prove that the $251 spent over three months for food, and clothing, and school supplies, were not luxuries.

Senator Dodd's nondischargeability provision would provide that credit card purchases would be nondischargeable only if: they are for $400 or more per item or service; they were made within 70 days of filing; and the creditor proves at a hearing that the items are not reasonably necessary for the maintenance and support of the debtor.

This amendment would not address all of the problems with S. 625. But it would ameliorate some of the harshest effects of the legislation on women and their families.

Sincerely,

National Women's Law Center, National Partnership for Women & Families, ACES, Association for Children for Enforcement of Support, American Association of University Women, Business and Professional Women/USA, Center for the Advancement of Public Policy, Coalition of Labor Union Women (CLUW), Equal Rights Advocates, Feminist Majority, National Association of Commissions for Women, National Center for Youth Law, National Organization for Women, Northwest Women's Law Center, NOW Legal Defense and Education Fund, Older Women's League (OWL), Women Employed, Women Work!, YWCA of the USA.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, November 9, 1999.

Re: The ''Bankruptcy Reform Act of 1999''.

DEAR SENATOR: On behalf of the Leadership Conference on Civil rights (LCCR), a coalition of 180 national organizations representing people of color, women children, organized labor, persons with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups, we urge you to oppose S. 625, the ''Bankruptcy Reform Act of 1999.''

As you know, bankruptcy reform has not been, per se, an issue of traditional concern to the LCCR. However, S. 625 poses significant concerns for the civil rights of all working persons in the United States.

While the LCCR does not support the comprehensive legislation of S. 625, we do support three amendments to the bill. First, we support the ''Children and Families amendment,'' which will be offered jointly by Senators Dodd, Landrieu and Kennedy. Second, we support the ''Predatory Leading Amendment,'' which Senator Durbin will offer. Third, we support the Minimum Wage Amendment which will be offered by Senator Kennedy. Each of these amendments is important to balanced and effective bankruptcy reform; and we strongly urge you to support them.

The ''Children and Families Amendment'' is designed to ensure that child and espousal support payments and earned income tax credits are not property of the bankruptcy estate. The legislation will replace the current definition of household goods with the House of Representative's definition to allow debtors to keep personal property found in and around the residence. Finally, the amendment will modify the means test to allow more flexibility when there are special expenses related to the care and support of children.

The ''Predatory Lending Amendment'' is designed to discourage abusive lending practices. The Durbin amendment targets lenders

that violate current Truth in Lending Act standards. The amendment simply says if an individual violates current law they lose their claim in bankruptcy.

The Mimimum Wage Amendment is especially important and we strongly urge you to support it. It will help over 12 million Americans—mostly adult workers trying to support their families. By increasing the earnings of workers who are paid hourly from $5.15 to $5.65 an hour in 1999 and to $6.15 in 2000, we will be making it easier for these working families to provide the essentials for their children. Given that bankruptcy is particularly hard on low wage workers, this modest increase in the minimum wage is an especially fair element to any bankruptcy reform measure.

BACKGROUND

As a general matter, every economic discrimination suffered by disadvantaged groups in our society is reflected in the bankruptcy courts. Last year nearly 1.4 million families filed for bankruptcy, a record number. Most of the families that used the bankruptcy system were those middle class Americans who are most vulnerable economically:

SINGLE PARENTS AND THEIR CHILDREN

In 1997, about 300,000 bankruptcy cases involved child support and alimony orders.[1] For about half, women were creditors seeking payments from their ex-husbands following a divorce. In addition, nearly 400,000 women heads-of-households filed for bankruptcy to stabilize their economic conditions. Many dealt with debts incurred during marriage, including debts their ex-husbands had been ordered to pay but for which the wives remained legally responsible when their ex-husbands did not pay. Without bankruptcy, these women would have been forced to choose between spending their now-reduced family incomes on rent, groceries and utilities or on past-due credit card bills.

For women, the cumulative effects of lower wages, reduced access to health insurance, the devastating economic consequences of divorce, and the disproportionate financial strain of rearing children alone is reflected in why women heads of households find themselves in bankruptcy courthouses.

OLDER AMERICANS

About 280,000 Americans aged 50 and older filed for bankruptcy during 1997.[2] Older Americans are more vulnerable to the consequences of a job loss; someone pushed out of a job at age 54 has a very hard time coming back economically. Medical coverage is limited just as their medical needs increase. Among Americans older than 65, about a third explained that medical bills not covered by medicare has pushed them to economic collapse. Altogether, more than two-thirds of older Americans attributed their financial problems to uninsured medical bills and job losses.

AFRICAN AMERICAN AND HISPANIC AMERICAN HOMEOWNERS

About 650,000 homeowners filed for bankruptcy last year trying to save their homes.[3] For all homeowners, bankruptcy gave them a chance to stabilize economically and focus their incomes on paying their mortgages to save their homes. However, the economic struggle for Hispanic American and African American homeowners is harder than for any other group. While 68% of whites own their own homes, only 44% of African Americans and Hispanic Americans own their own homes. Both African American and Hispanic American families are likely to commit a larger fraction of their take-home pay for their mortgages, and their homes represent virtually all of their family wealth. It is no surprise, then, that African American and Hispanic American homeowners are *six hundred percent* more likely to seek bankruptcy protection when a period of unemployment or uninsured medical loss puts them at risk for losing their homes.

Industry consultants estimate that credit card companies could cut their bankruptcy losses by more than 50% if they would institute mimimal credit screening.[4] Instead, the credit issuers have spent a reported $40 million last year on lobbyists and lawyers to urge Congress to become the collection agent for their bad loans—even as their profits reach into the billions of dollars.

We strongly believe that the underlying provisions of S. 625 would disproportionately affect working families and the constituencies that comprise the Leadership Conference on Civil Rights. While the LCCR does not support the overall bankruptcy reform bill, we fully support the ''Children and Families Amendment;'' the ''Predatory Lending Amendment;'' and the Minimum Wage Amendment. Each of these amendments is important to balanced and effective bankruptcy reform. We strongly believe that no bill should be enacted that does not include these three amendments that are crucial to the livelihood of all working Americans.

Thank you for consideration of our views.

Sincerely,

WADE HENDERSON,
Executive Director.

END NOTES

[1] The reported data are from Health and Human Services (support data) and Teressa A. Sullivan, Elizabeth Warren, Jay Lawrence Westbrook, ''Bankruptcy and the Family,'' 21 Marriage and Family Review 193 (Haworth Press 1995).

[2] Teresa Sullivan, Elizabeth Warren, and Jay Westbrook, ''From Golden Years to Bankrupt Years,'' Norton Bankruptcy Law Adviser 1 (July 1998). Teresa Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, ''Baby Boomers and the Bankruptcy Boom,'' Norton Bankruptcy Law Adviser 1 (April 1993).

[3] Teresa Sullivan, Elizabeth Warren, and Jay Westbrook, The Fragile Middle Class: Americans in Financial Crisis (forthcoming Yale University Press 1999); Teresa Sullivan, Elizabeth Warren and Jay Westbrook, As We Forgive Our Debtors; Bankruptcy and Consumers Credit in America 128–144 (Oxford University Press 1989).

[4] August, Fair, Isaac & Co. Released a new/bankruptcy predictor that it says can eliminate 54% of bankruptcy losses by eliminating potential non-payers from the bottom 10% of credit car holders. ''Credit Cards: Fight for Bankruptcy Law Reform Masks Truth,'' 162 Am. Banker 30 (September 8, 1997).

Mr. DODD. Mr. President, I do not know what the schedule is for this. I know we are not going to vote this evening, obviously. I ask unanimous consent that prior to a vote on this amendment the proponents and opponents will have at least a couple of minutes on either side to explain this amendment to our colleagues, since it is a bit complicated. There are pieces to it. Two minutes may not be enough; maybe 3 minutes on a side to explain what is in this amendment prior to the vote, whenever that occurs, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. I know other colleagues want to be heard. I thank the indulgence of my colleagues on the floor for listening to this debate.

Mr. GRAMM. Mr. President, one of the provisions of the bill before the Senate today would ''amend the Federal Reserve Act to broaden the range of discount window loans which may be used as collateral for Federal Reserve notes.'' This legislation was considered by the House Banking Committee and has been referred to the Senate Banking Committee. It is now being offered as an amendment to the bankruptcy bill to expedite its enactment prior to the adjournment of the Congress.

The currency collateral legislation would expand the field of assets that the Federal Reserve may use to collateralize Federal Reserve notes. All currency in circulation must be backed by specific assets, but much of the collateral that the Federal Reserve accepts for discount window loans is ineligible under current law for use to back the currency. The changes put in place by this legislation will allow the Federal Reserve to apply all eligible discount loan assets to collateralize the currency.

This legislation poses some risks unless adequate safeguards are in place. The Federal Reserve applies a discount to each type of asset used as collateral. Broadening the scope of eligible assets makes it even more imperative that strict and aggressive discounting be applied to any assets used to back U.S. currency. The Federal Reserve should discount aggressively these assets through an objective and clearly defined process that leaves no room for doubt that our currency is fully backed by reliable assets. At the most basic level, when valuing these assets this should be our general rule: when in doubt, discount.

Failure to discount collateral assets aggressively would do more than threaten the safety and soundness of the Federal Reserve's balance sheet; it would threaten the U.S. economy and all economies that rely on a stable dollar. Many countries around the world recently have learned a painful lesson on the value of a sound currency.

We must remember that any country can engage in monetary mismanagement, and most have at some point in time. The United States must avoid that path. With a currency that is considered a stable medium by U.S. citizens and a store of value by both domestic and foreign investors, the Federal Reserve must hold sound money paramount as it implements this important change in currency collateral requirements. It has taken nearly two decades to rebuild the reputation of the dollar after the inflation of the Carter years. Today, ''sound as a dollar'' has meaning here and all over the world. We must do nothing to undermine it.

Mr. L. CHAFEE. Mr. President, I rise to clarify my two votes today on amendments to the bankruptcy reform legislation to increase the minimum wage by $1.00, from $5.15 to $6.15 per hour. Let me begin by saying that I preferred the approach taken by Senator KENNEDY's amendment to increase the minimum wage in two increments over the next fourteen months.

Endnotes at end of article.

As my colleagues are aware, an increase in the minimum wage is needed for our Nation's workers. At our current minimum wage of $5.15 per hour, many of our workers are unable to support themselves and their families. In response to this need, I voted against a motion to table the Kennedy amendment because I believe workers should receive the increase over fourteen months, as opposed to the twenty-nine months proposed in the Domenici amendment. I also preferred the Kennedy approach because the business tax incentives offered in the amendment were fully paid for. On the other hand, the Domenici amendment provided $75 billion in business tax incentives to be funded by projected budget surpluses which may, or may not, materialize. Nevertheless, to its credit, the Domenici amendment offered provisions related to health insurance deductibility, and the permanent extension of the Work Opportunity Tax Credit—two important legislative items.

It is no secret that our economy is strong. Inflation is low and the economic arguments against raising the minimum wage are attempts not particularly persuasive. In fact, a recent editorial in the Providence Journal stated that ''. . . higher wages often mean greater loyalty and effort on the part of employees. Thus, whatever the increment of a higher minimum wage, that cost could be more than offset by higher revenue and profits from increased productivity and reduced turnover, hiring, and training costs. . . . Congress ought to do it.''

However, when the Kennedy amendment was tabled, I thought it was important to have, at the very least, some version of a minimum wage package approved by the Senate. Thus, I then voted in favor of the Domenici amendment. Although it is not an ideal package, I am hopeful that an agreement can be reached on a sensible, bipartisan approach to raising the minimum wage once the House passes its own version of the legislation. I urge my colleagues find that common ground, which in the end, will help our economy and our working families. We ought to do it.

Mr. LEVIN. Mr. President, the amendment I will offer requires the Federal Reserve to submit a report to the Senate and House Banking Committees concerning: (1) whether the location of the residence of an applicant for a credit card is considered by a financial institution in determining whether the applicant should be granted such card; and (2) the purposes for which such location is taken into consideration by such institution.

Mr. President, an individual's credit worthiness should be judged on his or her own credit history and not on where that individual happens to live. The stereotyping of consumers based on where they live is a social evil with very negative social consequences. The Congress has been instrumental in formulating legislation that seeks equal credit opportunity for all. If creditworthy persons can be rejected on account of his or her place of residence, our work is incomplete. Credit applicants should be considered on the basis of their individualized creditworthiness and not on the basis of place of residence.

Mr. President, this amendment requires that the Federal Reserve report be submitted not later than six months after the date of enactment of this act. I understand that the committee has no obligation to this amendment. I ask unanimous consent that the text of my amendment be printed following my remarks. The amendment is as follows:

SECTION 415

Mr. STEVENS. Mr. President, today I want to discuss a measure that will deal with a problem with the pension limits in section 415 of the Tax Code as they relate to multiemployer pension plans. This is a problem I have been trying to fix for years.

Section 415, as it currently stands, deprives working people of the pensions they deserve. In 1996, Congress addressed part of the problem by relieving public employees from the limits of section 415. It is only proper that Congress does the same for private workers covered by multiemployer plans.

Mr. DOMENICI. How does the current language of section 415 deprive workers of the pensions they earn?

Mr. STEVENS. That is a good question. It is a difficult issue that points to the complexity of the current Tax Code. Section 415 negatively impacts employees who have had various employers. Currently, the pension level is set at the employee's highest consecutive 3-year average salary. With fluctuations in industry, often times employees have up and down years rather than steady increases in their wages. This is especially true for those in the construction industries and other sectors that fluctuate with the local economic conditions. Fluctuations in work and income from year-to-year can skew the 3-year salary average for the employee, resulting in a lower pension when the worker retires.

Mr. DOMENICI. Does the Senior Senator from Alaska have any examples of how section 415 negatively impacts workers in multiemployer plans?

Mr. STEVENS. I thank the Budget Committee chairman for asking about section 415's real impact. An example of section 415's impact illustrates how unfairly the current law treats working people in multiemployer plans. Take, for instance, a woman who held two jobs before retiring. Upon leaving her first job she had accrued a monthly retirement benefit of $474 per month. In her second job she was employed for 15 years by a local union and her highest annual salary was $15,600. When she retires she applies for pension benefits from the two plans by which she was covered. She had earned a monthly benefit of $1,000 from the one plan and combined this with the monthly benefit of $474 from the second plan for a total monthly income of $1,474 or $17,688 per year. She looked forward to receiving this full amount throughout her retirement. However, the benefits had to be reduced by $202 per month, or about $2,400 per year to match her highest annual salary of $15,600. The so-called ''compensation based limit'' of section 415 of the Tax Code did not to take into account disparate benefits, but intended only to address people with a single employer likely to receive steady increases in salary.

Mr. DOMENICI. Does this affect all retirees with pension plans?

Mr. STEVENS. No. Section 415 treats public employees differently from workers in multiemployer plans. If she had been a public employee covered by a public plan, her pension would not be cut. This is because public pensions plans are not restricted by the compensation-based limit language of section 415. This robs employees in multiemployer plans of the money they have earned simply because they were not public employees.

Mr. DOMENICI. How does the current treatment of section 415 comport with recent efforts to increase pension education and to encourage people to save for retirement?

Mr. STEVENS. We do look for ways to encourage people to save for retirement and we try to educate people of the fact that relying on Social Security alone will not be enough. Yet the law may penalize many private sector employees in multiemployer plans by arbitrarily limiting the amount of pension benefits they can receive. It is wrong, and it should be fixed.

Mr. DOMENICI. How would the proposed changes to section 415 impact the treasury?

Mr. STEVENS. The Joint Committee on Taxation estimated last year that the changes adopted by the Senate on July 30th and included in my proposal would result in a tax expenditure of $4 million in the first year, $26 million over 5 years and $69 million over 10 years. It is a modest price to pay to ensure that people who have worked all their life can get the retirement benefits they are entitled to.

Mr. DOMENICI. This is not a new issue, is it?

Mr. STEVENS. No. It is an issue I have been involved with since the mid-1980's. Since that time we have seen thousands of working people in multiemployer plans retire with benefits below what they actually earned. I cosponsored S. 1209 with Senator MURKOSWKI in this session to address the problems of section 415. The provisions of that bill were accepted by the Senate Finance Committee and were included in section 346 of the Taxpayer Refund Act of 1999 passed by the Senate. That provision would have:

(1) Eliminated the application of the 100 percent of compensation defined benefit plan limit for multiemployer plans;

(2) Not allowed multiemployer plans to be aggregated with other plans

maintained by an employer contributing to the multiemployer plan in applying the limits on contributions and benefits except in applying the define benefit plan dollar limitation;

(3) Applied the special rules for defined benefit plans of governmental employers to multiemployer plans, thus eliminating the high-three-year average limitation; and

(4) Increased reductions of the dollar limit prior to age 62 for defined benefit plans of governmental employers and tax-exempt organizations, qualified Merchant Marine plans and multiemployer plans from $75,000 to 80 percent of the defined benefit dollar limit.

In addition, measures to relieve the inequity of applying the three year high average had been passed three times prior to the passage of the Taxpayer Refund Act of 1999 by the Senate, most recently in the 1997 Taxpayer Relief Act.

The provisions contained in the Domenici Amendment to the bankruptcy bill would:

(1) Increase the limit for defined benefit plans from $90,000 to $160,000;

(2) Increase the limit to be adjusted before the Social Security retirement age from $90,000 to $160,000; and

(3) Increase contribution limits from $30,000 to $40,000.

While these proposals are important to ensuring retirees get the benefits they deserve, they do not go far enough to create parity between retirees in multiemployer plans and retirees in public plans.

Mr. NICKLES. Note that the Senate Finance Committee approved most of the provisions outlined by Senator STEVENS and later all of the provisions in his proposal were included in the Senate version of the Taxpayer Refund Act of 1999 that passed the Senate on July 30th. The problems for working people in multiemployer plans associated with section 415 concern me and I understand the Budget Chairman will join me in working to secure the provisions described by Senator STEVENS.

Mr. DOMENICI. Yes. The assistant majority leader is correct.

Mr. STEVENS. I thank the distinguished budget chairman and the assistant majority leader.

MORNING BUSINESS

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

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

MICROSOFT FINDINGS OF FACT

Mr. GORTON. Mr. President, it was recently reported that Department of Justice anti-trust chief Joel Klein attended a party to celebrate James Glassman's new book ''Dow 36,000.'' During the party, Mr. Klein, who is prohibited from buying and selling stocks while he serves in his current post, was overheard saying to the author, ''Wow. Dow 36,000—I hope it'll wait until I get out of office.'' Mr. Glassman reportedly responded that Mr. Klein was already doing his part to keep the Dow down.

Mr. President, I am here to report that not even Joel Klein and the Department of Justice can shake the confidence of investors all across this great land who responded to Judge Jackson's Findings of Fact with a mild yawn. Apparently, investors understand that punishing trail blazing companies that have brought dramatic and positive change to consumers never has been, and never should be, the American way.

Despite the Government's attempts to turn the public against Microsoft, Microsoft continues to be one of the most respected companies in America. A majority of Americans believe Microsoft is right and the Government is wrong in this current lawsuit. In fact, a Gallup poll conducted over the weekend suggested that 67 percent of Americans still have a positive view of Microsoft despite the efforts of the Federal Government.

Judge Jackson made clear early in the case that he shared the administration's desire to punish Microsoft for being too successful. His Findings of Fact do not remotely reflect the phenomenal competition and innovation that is taking place in the high-tech industry every day. Reading the Findings, it is clear that even this judge could not document tangible consumer harm. Judge Jackson's thesis is that Microsoft is a tough competitor and that that toughness must stifle innovation and must harm consumers. But the judge could document no tangible harm * * * and this is why he will be reversed.

When you look at the world around us, whether in the workplace, at home, in schools, you see first-hand how 25 years of innovation in the high-tech industry has empowered and enriched people from all walks of life.

Every family and every community in America has benefited from the information revolution fueled by Microsoft. Sitting on the desktop in every office, school and hospital is a machine that brings power directly to people. Ten years ago only governments and large institutions had the power that so much information and knowledge brings. Today, because of competition among software and Internet businesses, that power runs to people and to families in cities and towns everywhere.

While the trial was going on, the high-tech industry has changed dramatically and reinvented itself a dozen times. Competition is alive and well and consumers are reaping the benefits.

Do the following numbers sound like they come from an industry that is stifled by monopolistic practices?

In 1990, there were 24,000 software companies. Today there are 57,000. And this growth shows signs of accelerating even further.

The high-tech industry accounts for 8.4 percent of America's GNP and one-third of our economic growth.

This year, the software industry alone will add almost $20 billion in exports to America's balance of trade.

It is particularly amazing that Judge Jackson found that barriers to entry into the market are too high. Apparently Linus Torvalds didn't get that memo. The 21-year-old student at the University of Helsinki recently disseminated into cyberspace the code for a computer operating system he had written. This experiment has evolved into the Linux operating system, which now has over 15 million users and is supported by such industry heavyweights as IBM, Intel, Hewlett-Packard, Dell, Gateway, Compaq, and Sun Microsystems.

Also fascinating is the fact that the co-founder of Netscape, Marc Andreessen, created the technology for the Netscape web browser when he was a student at the University of Illinois. Four years later, the company he founded sold for $10 billion. Clearly, anyone with a great new idea can compete in this fast-paced competitive economy.

Although Microsoft is at the center of this fantastic growth that has helped the economy and brought incredible technological advances to consumers, its position as a market leader is not secure. It remains true that anyone, from any background, can by hard work and determination, take on the most successful corporation of the 20th century. As the explosive growth of Linux shows, Microsoft, too, must be allowed to compete, or be relegated to the slow lane of the information superhighway.

The competitive environment in high-tech has never been stronger. Every day new alliances change the face of the industry. America Online has transformed itself into a web, software, and hardware dynamo by purchasing Netscape, forming an alliance with Sun Microsystems, and investing heavily in Gateway. It is competitors like this who are positioned to ensure that vigorous competition, which is a boon to consumers, will lead the way into the 21st century.

Should the Federal Government intervene, our entire economy will suffer. By picking winners and losers, stifling innovation and attempting to regulate through litigation, the Federal Government can do immeasurable harm to an industry it admits it doesn't even understand. Need I remind you that these are the same people who have brought you models of efficiency such as the IRS?

Regardless of the exponential growth and vigorous competition in the high-tech industry, Judge Jackson seems convinced that consumers have been harmed by Microsoft. This he believes despite the testimony of the government's own witness, MIT professor