wrote it and they will be darned if they are going to change it. That is not how we do rules, particularly ones that cost billions of dollars, without getting the desired effect. That is the purpose of a rule, to get a desired effect. This one will not get the desired effect.

It is interesting to note the Bureau of Labor Statistics says, without the rule, United States employers reduced ergonomic injuries by 29 percent. What do the hearing records show? With the ergonomics rule they would get zero percent the first year and 7 percent the second year. American business is doing better than that without the rule. How are they doing it? Somebody is helping them to figure out what they need to do.

Small business in this country has trouble handling the OSHA rules. They have over 12,000 pages of regulations they have to digest. If you are a small employer, you cannot read 12,000 pages in a year. Any time they get help on knowing what they can do to provide safety in the business, they do it. It is shown time and time again on every kind of injury there is. So we put in the motion to slow down OSHA a little bit, to make sure they took the necessary time to look at the rule and to get rid of this perception that their first idea was the only idea and the right idea and going to be the final idea. Somehow, they have to work past that perception.

The amendment is a reasonable 1-year delay. It will ensure that OSHA takes the time to evaluate all 7,000 comments it has received and try to resolve the problems with the rule. It also gives Congress the time to perform its appropriate oversight function.

So there is a reason for a delay. Rules in OSHA have been extremely permanent. Any one that has ever passed has had court trials and a number of them have been reversed. But if they make it through the court trial, did you know they have not been revised in the time that OSHA has been around? Do you think technology has changed a little bit? Do you think there is any reason we ought to look at rules that are 29 years old? We probably ought to. Instead, we are rushing into an area here that not only provides a rule without sufficient oversight, but it provides a rule that gets into workers comp. Yes, it gets into workers comp. In its preamble, OSHA specifically prohibits any right to impose on workers comp, and there is good reason for that. Workers comp has been around a long time. There are precedents that have been developed. They are important precedents.

Here is the biggest problem with it. You can get paid twice for the same injury. It is kind of a rule of mine: If I can make more by not working than I can working, don't expect me to show up. That is going to cause some major problems for business in this country. It is something that needs to be revised. Again, there is no indication at all it would be revised.

So the House folks and the Senate folks—not just the House folks, as has been written up in some of the papers—have been incensed the President is insisting this rule be allowed to go into force but not to be enforced until next year. That is not the way we do it. That is one of the things that is keeping Labor-HHS from being approved now. It should not be the major crux of an appropriations bill, but it is a very important point that we need ensure that any changes made in rules that work on the worker get the proper amount of oversight.

That is all we are asking for, an opportunity to do the proper oversight on it and to get an indication of some sort from OSHA that they are going to pay attention to any of the 7,000 comments they received.

We are at a point where we need to wrap up this session. We are at a point where we need to get the work done. But that is one item I will stay around here for until next year, if I have to, to be sure we do the job right and not in a hurry. We do not need to rush things.

I thank the Senator from Iowa, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

ORDERS FOR WEDNESDAY, NOVEMBER 1, 2000

Mr. GRASSLEY. Mr. President, for the leader, I have a unanimous consent request.

I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 9:30 a.m. on Wednesday, November 1. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a cloture vote on H.R. 2415, the bankruptcy legislation, as under the previous order.

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

Mr. GRASSLEY. Further, I ask unanimous consent that the Senate stand in recess from the hour of 12:30 to 2:15 p.m. for the weekly policy conference meetings.

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

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will convene tomorrow at 9:30 a.m. A cloture vote on the bankruptcy bill is scheduled to occur immediately following the prayer and opening statement. Following the vote, under rule XXII, the Senate will begin 30 hours of postcloture debate on the bankruptcy bill. The Senate will recess for the weekly party conferences from 12:30 to 2:15 p.m. Senators can expect a vote on a continuing resolution late tomorrow afternoon and will be notified as to when that vote is scheduled.

ORDER FOR RECESS

Mr. GRASSLEY. If there is no further business to come before the Senate, I now ask the Senate stand in recess under the previous order, following the remarks of myself and Senator SESSIONS.

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

BANKRUPTCY

Mr. GRASSLEY. We have had a good discussion on the bankruptcy bill. We will have further discussion postcloture. I think we have a good product. This conference report is basically the Senate-passed bankruptcy bill with certain minimal changes made to accommodate the House of Representatives. The means test retains the essential flexibility that we passed in the Senate. The new consumer protections sponsored by Senator REED of Rhode Island relating to reaffirmation is in our conference report before the Senate. The credit card disclosure sponsored by Senator TORRICELLI is also in this final conference report. We also maintain Senator LEAHY's special protections for victims of domestic violence and Senator FEINGOLD's special protections for expenses associated with caring for nondependent family members.

I think it is pretty clear that on the consumer bankruptcy side, we maintain the Senate's position. Anybody who says otherwise has not read the conference report.

It is also important to realize how much of an improvement this legislation is for child support claims. The organizations that specialize in tracking down deadbeat fathers think this bill will be a tremendous help in collecting child support.

I have a letter I am going to ask to have printed in the RECORD from Mr. Philip Strauss of the Family Support Bureau of the San Francisco district attorney's office. Mr. Strauss notes that professional organizations of people who actually collect child support

> . . . have endorsed the child support provisions of the Bankruptcy Reform Act as crucially needed modifications of the Bankruptcy Code, which will significantly improve the collection of support during bankruptcy.

There you have it. According to people in the front lines, the bankruptcy bill is good for collecting child support. So I say to my colleagues, if you have concerns about child support, look at this letter.

I ask unanimous consent to have it printed in the RECORD.

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

DISTRICT ATTORNEY FAMILY
SUPPORT BUREAU,
San Francisco, CA, September 14, 1999.

Re S. 625 [Bankruptcy Reform Act].

DEAR SENATORS: I am writing this letter in response to the July 14, 1999 letter prepared

by the National Women's Law Center. That letter asserts in conclusory terms that the Bankruptcy Reform Act would put women and children support creditors at greater risk than they are under current bankruptcy law. The letter ends with the endorsement of numerous women's organizations.

I have been engaged in the profession of collecting child support for the past 27 years in the Office of the District Attorney of San Francisco, Family Support Bureau. I have practiced and taught bankruptcy law for the past ten years. I participated in the drafting of the child support provisions in the House version of bankruptcy reform and testified on those provisions before the House Subcommittee on Commercial and Administrative Law this year.

I believe it is important to point out that none of the organizations opposing this legislation which are listed in the July 14th letter actually engages in the collection of support. On the other hand, the largest professional organizations which perform this function have endorsed the child support provisions of the Bankruptcy Reform Act as crucially needed modifications of the Bankruptcy Code which will significantly improve the collection of support during bankruptcy. These organizations include:

1. The National Child Support Enforcement Association.
2. The National District Attorneys Association.
3. The National Association of Attorneys General.
4. The Western Interstate Child Support Enforcement Council.

The thrust of the criticism made by the National Women's Law Center is that by not discharging certain debts owed to credit and finance companies, the institutions would be in competition with women and children for scarce resources of the debtor and that the bill fails ''to insure that support payments will come first.'' They say that the ''bill does not ensure that, in this intensified competition for the debtor's limited resources, parents and children owed support will prevail over the sophisticated collection departments of these powerful interests.''

With all due respect, nothing could be further from the truth. While the argument is superficially plausible, it ignores the reality of the mechanisms actually available for collection of domestic support obligations in contrast with those available for non-support debts.

Absent the filing of the bankruptcy case, no professional support collector considers the existence of a debt to a financial institution as posing a significant obstacle to the collection of the support debt. The reason is simple: the tools available to collect support debts outside of the bankruptcy process are vastly superior to those available to financial institutions and, in the majority of cases, take priority over the collection of non-support debts.

More than half of all child support is collected by earnings withholding. Under federal law such procedures have priority over any other garnishments of the debtor's salary or wages and can take as much as 65% of such salary or wages. By contrast the Consumer Credit Act prevents non-support creditors from enforcing their debts by garnishing more that twenty-five percent of the debtor's salary.

In addition, there are many other techniques that are only made available to support creditors and not to those ''sophisticated collection departments of . . . [those] powerful interests:'' These include:

1. Interception of state and federal tax refunds to pay child support arrears.
2. Garnishment or interception of Workers' Compensation or Unemployment Insurance Benefits.
3. Free or low cost collection services provided by the government.
4. Use of interstate processes to collect support arrearage, including interstate earnings withholding orders and interstate real estate support liens.
5. License revocation for support delinquents.
6. Criminal prosecution and contempt procedures for failing to pay support debts.
7. Federal prosecution for nonpayment of support and federal collection of support debts.
8. Denial of passports to support debtors.
9. Automatic treatment of support debts as judgments which are collectible under state judgment laws, including garnishment, execution, and real and personal property liens.
10. Collection of support debts from exempt assets.
11. The right of support creditors or their representatives to appear in any bankruptcy court without the payment of filing fees or the requirements of formal admission.

While the above list is not exhaustive, it is illustrative of the numerous advantages given to support creditors over other creditors. And while all of these advantages may not ultimately guarantee that support will be collected, they profoundly undermine the assumption of the National Women's Law Center that the mere existence of financial institution debt will somehow put support creditors at a disadvantage. To put it otherwise, support may sometimes be difficult to collect, but collection of support debt does not become more difficult simply because financial institutions also seek to collect their debts.

The National Women's Law Center analysis includes without specification that the support ''provisions fail to insure that support payments will come first, ahead of the increased claims of the commercial creditors.'' Professional support collectors, on the other hand, have no trouble in understanding how this bill will enhance the collection of support ahead of the increased claims of commercial creditors. To them, such creditors are irrelevant outside the bankruptcy process. And in light of the treatment of domestic support obligations as priority claims under current law and the enhanced priority treatment of such claims in the proposed legislation, this objection seems particularly unfounded.

Where support creditors are indeed at a disadvantage under current law is during the bankruptcy of a support debtor. Under existing bankruptcy law support creditors frequently have to hire attorneys to enforce support obligations during bankruptcy or attempt the treacherous task of maneuvering through the complexities of bankruptcy process themselves. Attorneys working in the federal child support program—indeed, even experienced family law attorneys—may find bankruptcy courts and procedures so unfamiliar that they are ineffective in ensuring that the debtor pays all support when due. Ideally, procedures for the enforcement of support during bankruptcy should be self-executing and uninterrupted by the bankruptcy process. The pending bankruptcy reform legislation goes far in this direction. To suggest that women and children support creditors are not vastly aided by this bill is to ignore the specifics of the legislation.

In the first place support claims are given the highest priority. Commercial debts do not have any statutory priority. Thus when there is competition between commercial and support creditors, support creditors will be paid first. And, unlike commercial creditors, support creditors must be paid in full when the debtor files a case under chapter 12 or 13. Unlike payments to commercial creditors, the trustee cannot recover as preferential transfers support payments made during the ninety days preceding the filing of the bankruptcy petition, and liens securing support may not be avoided as they may be with commercial judgment liens. Unlike commercial creditors, support creditors may collect their debts through interception of income tax refunds, license revocations, and adverse credit reporting, all—under this bill—without the need to seek relief from the automatic bankruptcy stay.

In addition, support creditors will benefit—again, unlike commercial creditors—from chapter 12 and 13 plans which must provide for full payment of on-going support and unassigned support arrears. Further benefits to support creditors which are not available to commercial creditors is the security in knowing that chapter 12 and 13 debtors will not be able to discharge other debts unless all postpetion support and prepetition unassigned arrears have been paid in full.

Finally, and most importantly, support creditors will receive—even during bankruptcy—current support and unassigned arrearage payments through the federally mandated earnings withholding procedures without the usual interruption caused by the filing of a bankruptcy case. Like many other provisions of the bill, this provision is self-executing, the bankruptcy proceeding will not affect this collection process. Frankly, and contrary to the assertions of the National Women's Law Center, it is difficult to conceive how this bill could better insure that ''support payments will come first, ahead of the increased claims of the commercial creditors.''

The National Women's Law Center states that some improvements were made in the Senate Judiciary Committee. This organization may wish to think twice about that conclusion. What the Senate amendments did was to distinguish in some cases between support arrears that are assigned (to the government) and those that are unassigned (owned directly to the parent). The NWLC might have a point if assigned arrears were strictly government property and provided no benefit to women and children creditors. However, upon a closer look, arrears assigned to the government may greatly inure to the benefit of such creditors.

In the first place the entire federal child support program was created to recover support which should have been paid by absent parents, but was not. Such recovered funds became and remain a source of funding to pay public assistance benefits, especially by the states which contribute about one half of the costs of such benefits.

More directly significant, however, is the fact that under the welfare legislation of 1996 (the Personal Responsibility and Work Opportunity Reconciliation Act) support arrearage assigned to the government and not collected during the period aid is paid reverts to the custodial parent when aid ceases. This scenario will become increasingly common in the very near future as the five year lifetime right to public assistance ends for individual custodial parents. In such cases this parent will face the double whammy of being disqualified from receiving the caretaker share of public assistance and—because of the Senate amendments—not receiving arrears or intercepted tax refunds because they were assigned at the time the debtor filed for bankruptcy protection.

In addition, prior to the Senate Judiciary Committee amendments a debtor could not obtain confirmation of a plan if he were not current in making all postpetition support payments. The advantage of this scheme was that it was self-executing. Under the Senate amendments a debtor may obtain confirmation even when he is not paying his on-going support obligation. He is only required to

provide for such payments in his plan. In such cases it will then be the burden of the support creditor to bring a bankruptcy proceeding to dismiss the case if the debtor stops paying. While this procedure is a welcome addition to the arsenal of remedies available to support creditors, it should not have supplanted the self-executing remedy which required the debtor to certify he was current in postpetition support payments before the court could confirm the plan.

While the Senate version of bankruptcy reform should certainly be amended to restore the advantages of the earlier draft, it does, even in its present form, provide crucial improvements in the protections and advantages afforded spousal and child support creditors over other creditors during the bankruptcy process. These improvements will ease the plight of all support creditors—men, women, and children—whose well-being and prosperity may be wholly or partially dependent on the full and timely payment of support. Congress has created the federal child support program within title IV–D of the Social Security Act. It is the opinion of those whose job it is to carry out this program that the Bankruptcy Reform Act provides the long overdue assistance needed for success in collecting money during bankruptcy for child and spousal support creditors.

Most of the concerns raised by the groups opposing the bill do not, in fact, center on the language of the domestic support provisions themselves. Instead they are based on vague generalized statements that the bill hurts debtors, or the women and children living with debtors, or the ex-wives and children who depend on the debtor for support. It is difficult to respond point by point to such claims when they provide no specifics, but they appear to fall into two categories.

The first suggests that the reform legislation will result in leaving debtors with greater debt after bankruptcy which will ''compete'' with the claims of former spouses and children. As discussed above there is little likelihood that such competition would adversely affect the collection of support debts. In any event the bill does little to change the number or types of nondischargeable debt held by commercial lenders. it will slightly expand the presumption of nondischargeability for luxury goods charged during the immediate pre-bankruptcy period and will make debt incurred to pay a nondischargeable debt also nondischargeable. It is doubtful that either provision will, in reality, have much effect on the vast majority of ''poor but honest'' debtors who do not use bankruptcy as a financial planning mechanism or run up debts immediately before filing for bankruptcy in anticipation of discharging those obligations.

The second contention is presumably directed at a number of provisions in the bill that are designed to eliminate perceived abuses by debtors in the current system. The primary brunt of this attack is borne by the so-called ''means testing'' or ''needs based bankruptcy'' provisions which would amend the current language of Section 707(b). Most of the opposition appears to stem from the notion that means testing would be a wholly novel proposition. Such a conclusion is plainly incorrect. Virtually every court that has ever considered the issue holds that Section 707(b) already includes a means test or, more accurately, a hundred or a thousand means tests, one for each judge who considers the issue. The current Code language sets no standards or guidelines for applying this test, thus leaving the outcome of a motion subject to the unstructured discretion of each bankruptcy judge. The proposed bankruptcy reform legislation attempts to prescribe one test that all courts must apply.

The precise terms of that standard have been under constant revision since the bankruptcy reform bills were introduced last year, and undoubtedly they will continue to be fine-tuned to ensure that they strike a balance between preventing abuse and becoming unduly expensive and burdensome. But mere opposition to any change in the present law, and vague claims that any and all attempts to address such existing abuses as serial filings are oppressive and will harm women and children, does nothing to advance the dialogue. And worse, the critics appear content to sacrifice the palpable advantages which this legislation would provide to support creditors during the bankruptcy process for defeat of this legislation based on vague and unarticulated fears that women will be unfairly disadvantaged as bankruptcy debtors. In more ways than one the critics would favor throwing out the baby with the bath water. No one who has a genuine interest in the collection of support should permit such inexplicit and speculative fears to supplant the specific and considerable advantages which this reform legislation provides to those in need of support.

Yours very truly,

PHILIP L. STRAUSS,
Assistant District Attorney.

Mr. GRASSLEY. Mr. President, listen to the people who actually know how it is in the trenches collecting child support. Don't listen to inside-Washington special interests. Don't listen to academics who have no real world knowledge on this subject.

I would add a word about cracking down on the very wealthy individuals who abuse the bankruptcy system. If you listened to the Senator from Minnesota last night, you might have had the impression that the Homestead exemption is a giant loophole that this bill does not deal with. We have had the General Accounting Office look at the question of how frequently the Homestead exemption is abused by wealthy people in bankruptcy. The General Accounting Office found that less than 1 percent of bankruptcy filings in States where there are unlimited Homestead exemptions involving homesteads of over $100,000. That means 99 percent of bankruptcy filings were not abusive. So this is not a loophole. We might say it is a little tiny pinhole.

But there is a real problem with very wealthy people filing for bankruptcy under chapter 11, which is the chapter of the bankruptcy code normally left for corporations. Because chapter 11 is not designed for individuals, there are numerous loopholes that allow the wealthy to live high on the hog while paying nothing to their creditors. This bill before the Senate fixes this very major problem so these wealthy people will know they are no longer going to get off scot-free.

This bill combats abuse wherever we find it. The Homestead exemption is capped at $500,000 for homes purchased within 2 years prior to the declaration of bankruptcy. The chapter 11 loophole is closed. This is what real reform is all about.

In sum, in this conference report we preserve the proconsumer amendment adopted in the Senate. We crack down hard on abuses by the wealthy. We help child support claimants in a very major way. This bill is good for the American consumer.

I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the Chair recognizes the Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator GRASSLEY for his tremendous leadership on this bill. As he has said so plainly and effectively, that anyone who is concerned about consumer problems, debtors, fraud and abuse, and who does not believe this bill is an improvement over current law, has not read the bill.

I am going to talk about some of those things. This bill makes progress in virtually every area over current law. Senator GRASSLEY has patiently, for over 3 years, gone through hearings in the Judiciary Committee, on which I have been honored to serve, in his subcommittee, on the floor of this Senate, in conferences, committees, and meetings trying to eliminate every possible objection anyone could have to this bill.

When we get to this point after having tremendous votes—over 90 votes, one time 97–1 we passed this legislation—and we still have not made it law because a few dedicated people are threatening to hold it up and the President has indicated he may veto this bill that makes real progress in protecting consumers and fair and just legal dispute resolution.

Bankruptcy law is operative in Federal court. It is presided over by a Federal bankruptcy judge, not an Article III judge that presides over Federal district court, but a Federal judge nevertheless. All the laws used in this court, unless the Federal law says otherwise, are federal.

There was a Bankruptcy Reform Act passed by Congress in 1978. We have had no significant reforms since then. During the time since 1980, just 2 short years after the passage of that act, there were 330,000 bankruptcy filings. In 1998, there were 1.4 million bankruptcy filings—a 423-percent increase during a time of unprecedented economic growth and prosperity.

What is happening? Certainly it is time for us, as good stewards of American legal policy, to take a minute to find out what is happening in bankruptcy court, to see what the abuses are and what loopholes clever lawyers are now using—to see if we can't improve it and make it fairer and better for all concerned. We absolutely can do that. That is why this legislation, essentially as it is today, has repeatedly passed the House and the Senate with overwhelming majorities. It passed the Judiciary Committee 15–3 and 16–2. That is why it ought to pass today.

It is absolutely stunning to me that we are at a point where this bill may not pass because of the misinformation and politics that is happening here. There are now 3,474 bankruptcy filings per day. This chart shows the increase

in filings subsequent to the Bankruptcy Reform Act of 1978. It shows a tremendous increase. We are not making up these numbers. There are a lot of reasons for it.

Actually, what has happened is that a cottage industry has sprung up. Turn on your TV, turn on your cable channels, look in your newspapers. You will see the ads: ''Lawyers: Wipe out your debts. Got problems paying your debts? Call old Joe the attorney, he will take care of you. He will save you rent. You can get out of paying rent.'' All of a sudden people are doing that.

In fact, here is an ad in one paper—and I am going to talk about it a little later—''7 months free rent,'' just call your old buddy the bankruptcy lawyer. ''We guarantee you can stay in your apartment or house 2 to 7 months more''—that means more than you would get under eviction rules of the State which protect tenants from being evicted unfairly—''more without paying a penny. Find out how. We can stop the sheriff or the marshal.'' Call old John your bankruptcy lawyer. This bill ends a host of abuses. It will greatly benefit women and children in their child support and alimony, and those facts cannot be denied.

Let me talk about some of the complaints we have heard first. They say this is a procedural unfairness; that this is a bizarre way we have done this, unprecedented, and unfair. We have had this bill up and about for 3 years. It has been debated in so many different ways. It is now part of the embassy security bill which is not at all unusual for one piece of legislation to be made a part of another piece of legislation as it passes through the Senate.

The Senate rules allow for that to happen and for it to come forward as a conference bill if the House has voted on it. The House has voted on it and voted in favor of this bill. The House acted on October 12. It is perfectly proper for it to be in the form it is.

There have been statements made that we have not had a chance to amend or that we have not had full discussion. There has been constant discussion. There has been agreement time and again to amend it. Senator KOHL, a member of the Democratic Party who worked hard on this bill, and I battled to improve the homestead law. We did not get all we wanted, but we made substantial progress. The homestead law in this legislation is significantly more fair than the unlimited homestead in current law, and if we do not pass the bill, current law will remain in effect, and the homestead abuses will continue unchecked; whereas, this bill eliminates the most serious homestead law abuses.

That cannot be denied. I do not understand. We are almost in 1984 land. Is it perfect? Is it the enemy of the good? Yes, I would have liked to have made more progress. I debated it on this floor. I argued for reform. A number of States have laws that would be overridden by changes I would like to see, and they fought tenaciously to hold on to their own laws. We had to make some compromises to move this bill forward, though, and I think we have made substantial progress. If anybody is concerned about the homestead law, why in the world would they vote to keep an old bill and not pass this new bill which improves the homestead provisions. Senator BIDEN, a member of the Judiciary Committee who was intimately involved in this bankruptcy law, was the ranking member of this conference committee. He voted to bring the bill out to this floor in the form we are in today.

Senator KENNEDY raised an odd objection. He claims he is worried about poor people, but he wanted to put in language that would allow pensioners who had millions of dollars in their pension accounts—no matter how much they had in there—to keep that money and to not have to pay the guy who put the roof on their house when they filed for bankruptcy. They could file for bankruptcy and keep everything in their pension account, even if it was millions of dollars.

Senator GRASSLEY and I thought that was an unfair advantage to the rich. We wanted to cap the amount of money that could be kept in a pension account. If you had a reasonable amount, $1 million, $750,000, whatever the amount would be, we tried to contain it at a reasonable amount. Why should a person keep $2 million in a pension account and not pay his doctor, not pay the local hospital, not pay the man who fixed his roof, not pay the guy who repaired his car or his brother-in-law who loaned him money? Why should that happen? That is not fair, but that is what Senator KENNEDY wanted. He pushed for it and, as a compromise—in fact, it does not happen that often—we agreed to concede to that. To say that we were not making changes at the last minute is really strange.

Senator SCHUMER is going to vote against the bill if it does not have his abortion clinic language in it; when, in fact, it does not have abortion clinic language in it now. And he is not going to get it in there because it is an unfair targeting of one group of wrongdoers. He will not agree to have broad-based language, as I would support, and others will. So everybody is losing. The perfect becomes the enemy of the good.

Let me mention this. In the 105th Congress, 2 years ago, the House passed this bill 306–118. It passed the Senate September 23, 1998, 97–1. In the 106th Congress, in May, the House voted 313–108 to pass this bill—an even higher vote. In the Senate, we voted in February of this year, 83–14, to pass this bill.

It has broad bipartisan support. It is a tremendous step forward. Why in the world we are having the difficulties we are in having to overcome a filibuster remains difficult for me to understand.

I want to talk a little bit about the homestead situation.

The Federal bankruptcy law says, with regard to how much money you can protect as your homestead will be determined by State law.

In Alabama, the State says you cannot keep more than $5,000 in your homestead. If you have more than $5,000 equity in your house, you need to go refinance it and use that money to pay the people the debts that you owe them. Why should you keep it and not pay your debt if you have this money?

In Texas, they say you can have an unlimited homestead exemption; also in Florida, Kansas, and several other States there is an unlimited homestead exemption. They did not want to give that up. I think it is an abuse.

We have an example of people leaving New York to go to Florida and buying a multimillion-dollar mansion on the beach, pumping all their assets into it, holding off creditors for a few months, and then filing bankruptcy, wiping out what they owe to everybody; and they are free to sell their million-dollar mansion and use the million dollars to live high and carefree for the rest of their days. That is not right.

So we dealt with that. It was not easy. We had a lot of people here who did not want to change that privilege of a State to set that homestead exemption.

In Alabama, you can, for example, move from Mobile to Pensacola, FL—50 miles away—put all your money in a multimillion-dollar house on the beach and defeat your creditors. That is not right, either. So we tried to do better. We came up with language that would stop that. Senator KOHL and I debated it right here.

This legislation provides for a 7-year look-back. If you can prove that a person moved to a State to gain preferential homestead treatment, and he moved assets into a house in order to file bankruptcy and defeat creditors, and if that happened within 7 years, you could set that aside. That is a big step forward—a big step to attack the most blatant fraud that occurs in this area. This provision is in the legislation.

By passing this legislation, we can stop this abuse right now. If we do not pass the legislation, we will be allowing this abuse to continue.

Let me talk about another very real problem, a loophole, a source of abuse that is causing problems and is very common.

People are using Federal bankruptcy laws to hold over on expired leases. That is a lease whose term is 1 year, and they are already beyond that 1 year. They have not paid their rent. It has been terminated, without the debtor paying rent, just like this ad refers to.

The sheriff of Los Angeles County has really spoken out aggressively on this. He said: ''3,886 people filed bankruptcy in Los Angeles County in 1996 alone in order to prevent the execution of valid, court-issued eviction notices.''

As this ad says: ''We can stop the sheriff and the marshal and get you

more time.'' You do not have to pay your rent. You do not have to pay maybe the lady who has two duplexes and it is her retirement income. You do not have to pay that. You can rip her off for 7 months. Just listen to us.

How does it happen? It does happen. Judge Zurzolo, in In re Smith, a Federal bankruptcy judge in Los Angeles, wrote this:

> . . . the bankruptcy courts in the Central District of California are flooded with Chapter 7 and Chapter 13 cases filed solely for the purpose of delaying unlawful detainer evictions. Inevitably and swiftly following the filing of these bankruptcy cases is the filing of motions for relief of the Stay by landlords who are temporarily thwarted in this abuse of the bankruptcy court system.

In other words, what happens? They file bankruptcy. The landlord is seeking to evict them. They file a motion in the bankruptcy court to stay the landlord from proceeding with his eviction until the bankruptcy case is completed. Then the landlord has to go and hire a lawyer to file a motion to say that this isn't a valid use of the stay. A stay only protects you in an asset. If your lease has expired, it is not an asset. If it is not an asset, the court cannot protect it. It is the landlord's; it is not the tenant's, if the lease has expired.

So what happens? Mr. President, 3,886 of those were filed, according to the sheriff, simply for that purpose—to get this unfair extension of time without paying rent.

How we have a law in this country that promotes and allows this kind of abuse is beyond me.

The truth is when the landlord files these motions, he always wins because the lease has expired or it has been legally terminated, and as such the tenant does not have any property. He does not have an interest to be protected. It is the landlord's property, not the tenant's. It costs the landlord a lot of money; and a lot of months and weeks go by while he waits to be returned to rightful possession. The current law is abusive to these law-abiding landlords. We can help them—we can improve on current law—and we should. This bill provides that help.

It also allows, of course, all the State protections for eviction that every State provides.

California provides a lot before you can be evicted from an apartment or house. As the judge says: Contrary to the false representations made by these ''bankruptcy mills''—he is talking about this cottage industry of lawyers and advertisers who run this stuff—despite their representations, the debtor/tenants usually only obtain a brief respite from the consummation of the unlawful detainer convictions, after having paid hundreds of dollars to the lawyers. That is what the judge said.

There are 50,000 bankruptcies a year filed in the Central District of California. The judge says:

> The mountain of paperwork that accompanies the thousands of abusive ''unlawful detainer'' case filings places an unnecessary burden on our already overworked and under-compensated clerk's office. Of course this mountain of paperwork flows from our clerk's office to the chambers of our judges when landlords file their relief from Stay motions. Because of the increased workload caused by these blatantly abusive unlawful detainer case filings, our court has had to establish special procedures dismissing these cases as quickly as possible so that the court's dockets and the clerk's files will not become more choked with paperwork than they already are.

I am not saying this. This is a Federal judge saying this, who deals with these cases every day. I am quoting:

> These relief from stay motions are rarely contested and never lost as long as the moving party provides adequate notice of the motion and competent evidence to establish a prima facie case.

Well, how did this arise? How could such happen? Bankruptcy provides for an automatic stay. If someone is suing you and you file bankruptcy, you don't have to go to court and defend all those cases where you have not been able to pay your debts on time and a bunch of people sue you. If you go into bankruptcy, everything stops. You have only to answer to the bankruptcy judge who sorts out all these legal problems and tells you whom to pay and how much to pay. An expired lease does not constitute an asset of a bankruptcy estate, as the courts have plainly held. That is what this language says, and it will stop this abuse from continuing unchecked and spreading around the rest of the country as more and more of these bankruptcy mills are created.

It is expensive for the landlord to do this. He has to hire an attorney. Weeks go by. Maybe the lease was up. Maybe the mother wanted to turn the apartment over to her daughter to live in and the lease was up in January. She starts trying to get the person out, and come March or April or May or June, the person is still there. She has had to file for eviction. Then they get a lawyer who stays it for all this kind of time and really costs individuals a lot of money. There are 7, 8, 9 months without rent being paid and all the while the attorney's fees are adding up. This scenario is a real problem that this legislation fixes.

What about women and children? There have been suggestions that somehow women and children are disadvantaged under this legislation. Nothing could be further from the truth.

Priority payment: Under current Federal law, child support and alimony payments are seventh in the list of priority debts that must be paid off in a bankruptcy proceeding. Incidentally, what do you think is No. 1? Attorney's fees. In this bankruptcy business and industry, who has been roundly critical of this legislation and who has lobbied their buddies around this Senate telling them this is such a bad piece of legislation? Who is going to have to change their ways? The lawyers. They don't get No. 1 priority over child support any longer, under this bill, and that makes them nervous.

What do I mean by No. 1? Often people who file bankruptcy do have certain assets. Those assets are brought into the bankruptcy estate and added up. Let's say there is $5,000 of assets and $50,000 worth of debts. The bankruptcy judge starts paying off. Under the old law, the current law today, if the bankruptcy attorney's fee is $5,000, he gets it all. He has to go down six different steps, paying off six different groups of creditors, before he gets to child support and alimony. We say, if there is $5,000 in the estate and there is child support money owed, the child support money gets paid first out of that, and alimony.

How anyone can say that that is unfair to women and children is beyond me. It is beyond comprehension. Those who say that are not right. This is historic change to the benefit of women and children. Nobody can dispute what I have just said about that. It is plain fact. Let me say some other things it does.

This legislation requires that a parent who is filing bankruptcy—let's say a father, deadbeat dad, files for bankruptcy—must fulfill past due and current child support before he can get discharged from bankruptcy. The court is going to monitor him to make sure he is paying his child support. If he is not paying his child support, the court will not give the final discharge that wipes out his debts. He has to take care of his children first.

It also will ensure that custodial parents, the parents who have the custody of the children, get effective and timely assistance from child support agencies. It requires the bankruptcy trustee or administrator—that is, this new law we are proposing and asking to be passed—to notify both the parent and the State child support collection agency when the debtor owing child support or alimony files for bankruptcy. In other words, a mother may not know that her ex-husband or the father of her child who lives in a distant State is even filing bankruptcy. What this says is, the mother has to be told; not only that, the State collection agency which is helping mothers collect the money has to be told so that they can intervene and make sure the child is protected.

It will provide timely and valuable information to parents to help collect child support.

Jonathon Burris of the California Family Support Council, a group that tries to protect mothers and children, wrote in an open letter to Congress that the provisions in this bill are ''a veritable wish list of provisions which substantially enhance our efforts to enforce support debts when a debtor has other creditors''—and they always have other creditors—''who are also seeking participation in the distribution of the assets of a debtor's bankruptcy estate.''

Phillip Strauss of the District Attorney Family Support Bureau wrote the Judiciary Committee. I was Attorney

General of Alabama. I was involved in this. States have district attorneys associations. They can intervene on behalf of women and children to make sure child support is being paid and that the money is being collected. That is what he does full time.

He recently wrote the Judiciary Committee. This is a man whose business full-time is collecting money for children. He wrote our committee to express his unqualified support for this bill.

Mr. Strauss notes that he has been in the business of collecting child support for 27 years. He knows what he is talking about. He also notes that the National Child Support Enforcement Association, a national group of which he is a part, and the National District Attorneys Association and the Western Interstate Child Support Enforcement Council agree with him and support this legislation.

There has been this big talk about how this harms families. Let me describe an amendment I added that I think would be of tremendous benefit.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 7 minutes.

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

Mr. SESSIONS. One of the things I have learned is that within every community in America there are agencies called credit counseling agencies. They sit down with families who have debt problems. They sit around a table. They even get the children in. They talk about what the income is, how much the debts are, how much current living expenses are. They help them establish a budget.

Some of them will even receive the money and pay the current debts regularly. They call up the banks and credit card companies and other people and ask for modifications of the payment schedule, a reduction in interest rates, and that sort of thing. They are very successful. They help families get mental health counseling if that is needed. They help families get treatment for gambling problems or drinking problems or drug problems. They help families—not like these mills, these bankruptcy mills, where people respond to an ad, a lawyer says they need so much money, and they say: I don't have this much money. The lawyer says to them—I am not exaggerating here—Use your credit card. Put all your bills on the credit card. Bring me your paycheck and pay me my fee. Don't pay anything else. Then we will file bankruptcy, and we will wipe out all those debts. So they get that.

They have a little clerk or a secretary or a paralegal who fills out the bankruptcy form. He doesn't see him again until they come to court. He shows up. They present their petition, and eventually the debts are wiped out. And they don't know the names hardly of the people with whom they are dealing. They have no concern or empathy to really deal with the problems in that family. And we also know, from statistics, that the largest cause of marital breakup in America is financial problems. We need to do better about that.

So I offered an amendment that has been accepted, and everybody seems to be pleased with it—except some of the lawyers—and that is to say that every person, before filing bankruptcy ought to talk with a credit counseling agency to see if what they offer might be better than going through bankruptcy—no obligation, just talk to them.

I think a lot of people are going to find that they have other choices than just going to bankruptcy court. Some people need bankruptcy. We are not trying to stop bankruptcy. Some people need it to start over again—but not everybody. A lot of people can work their way through it with the help of a good credit counseling agency. I think this is a tremendous step forward. I am very excited about it, and I believe it will offer a lot of help to people struggling with their budgets today.

Now we have had a most curious development. We have had Senators for the last 2 years come down on this floor and go forward with the most vigorous attacks on credit card companies. Do you know what it is they say they do wrong? They say they write people letters and offer them credit cards. They say this is some sort of an abuse, some sort of preying on the poor, to offer people credit cards.

I am telling you, we have laws that this Congress has passed—banking laws and other rules—that say you can't deny credit to poor people unless you have a serious, objective reason to do so. Why in the world would we want to pass a law that would keep MasterCard, Visa, or American Express from writing somebody and saying: If you take my credit card, your interest rate will be such and such, and you can have 6 months at 3 percent interest—or whatever they offer—and if you want to change from the one you have, we have a better deal?

What is wrong with that? We often have competition. Interest rates, in my opinion, for credit cards are too high. I am too frugal to have much money run up on my credit card if I can avoid it. I don't like paying 18 or 20 percent interest. What is wrong with offering people an opportunity to choose a different credit card? If these companies were refusing poor people and would not send them notices of the opportunities to sign up, I suppose we would be beating them up and saying they are unfair to poor people or they are redlining them and cutting them off. I wanted to say that. To me, that is sort of bizarre.

Second, this is a bankruptcy court reform bill. We are here to deal with the process of what happens when a person files for bankruptcy. We are not here to reform banking laws and credit card laws that are within the jurisdiction of the Banking Committee. That committee considers that. It is really not a bankruptcy court problem, fundamentally.

But what have we done in order to get support for this bill and answer questions? We made a number of consumer-friendly amendments in this bill to satisfy those who have complained. Of course, as soon as you give them something, they are not happy, and they say you are defending the evil credit card companies; that is all you are doing, they say.

I am trying to create a rational way for people who can't pay their debts to go to court and wipe out their debts, but not rip off people whom they can pay because they have the money to pay. So we have a minimal credit warning, a toll-free number so debtors can find out information about their records. That will be required of credit card companies.

There are a lot of good things here that are not in current law. So to not pass this bill will eliminate the steps we have made to put more limits and controls on credit card companies. Without a doubt, that is true. They might like to have a whole rewrite of credit card law in the bankruptcy bill, but that would be inappropriate. I think we have made steps in the right direction and we should continue in that direction.

As Senator GRASSLEY noted, there are terrific benefits for farmers under chapter 12. Chapter 12 provisions give additional benefits to farmers who file bankruptcy, and it expires this year. By not passing this bill, we are going to throw away the added protections that farmers have. How is that helping poor people and consumers? How does it help those who are having trouble with credit cards to vote down a bill that provides more demands on credit cards?

These are just a few ways, Mr. President, that this legislation improves current bankruptcy law. If time permitted, there are many more improvements that I would like to share with the members of this body.

In conclusion, I would just like to say that this bill includes many protections for women and children. It provides a long-overdue homestead fix, credit counseling, help for the family farmer and many other worthy provisions. A vote for this bill is a vote for much-needed change in the bankruptcy law in this country. As such, I strongly urge my colleagues to vote in favor of this bill.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m.

There being no objection, the Senate, at 6:37 p.m., recessed until Wednesday, November 1, 2000, at 9:30 a.m.