United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

Vol. 146 WASHINGTON, WEDNESDAY, FEBRUARY 2, 2000 *No. 7*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Luis Leon, St. John's Episcopal Church, Washington, DC. He is a guest of Senator MARY LANDRIEU.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rev. Luis Leon, offered the following prayer:

Gracious God, who has given us this good land for our heritage, we humbly pray that we may always prove ourselves a people mindful of the grace You have granted us. Bless our land with honorable industry, sound learning, and faithful leadership. Save us from violence and discord, confusion and chaos, pride and arrogance. Defend our liberties and fashion into one Nation the good people brought here out of many lands and languages. Endue with a spirit of wisdom those to whom in Your name we entrust the authority of government, especially the President and the Congress of the United States, that there may be justice and mercy in this land. Strengthen our resolve to see fulfilled all hopes for a lasting peace among all nations. In a time of prosperity, fill our hearts with thankfulness, and in a day of trouble remind us that we still belong to You. All this we ask in Your name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ORRIN HATCH, a Senator from the State of Utah, led the Pledge of Allegiance as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ALLARD). Senator GRASSLEY is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, for the leader, I would like to give today's schedule.

Today the Senate will resume consideration of the bankruptcy reform bill. Senator SCHUMER will be recognized to debate his amendments regarding safe harbor and clinic violence. There are several other amendments remaining, and those amendments will be debated throughout this morning's session.

All votes, including final passage, will be stacked and are expected to begin at approximately 12 o'clock noon. After disposition of the bankruptcy bill, the Senate is expected to begin consideration of the nomination of Alan Greenspan to continue as Chairman of the Federal Reserve Board.

The leader thanks all Senators for their attention.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 625, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Feingold modified amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Levin amendment No. 2658, to provide for the nondischargeability of debts arising from firearm-related debts.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could say to the acting majority leader, we do hope to finish the bankruptcy bill this morning. As I have indicated, we have Senators FEINGOLD and LEVIN coming over shortly after 11 o'clock. It will take until 11 o'clock with what Senator SCHUMER has to work on.

I would also say that we want to make sure the record is clear; the leader was wondering about the vote that was originally scheduled on the nuclear waste motion to proceed, whether or not that needed to go forward. I want the record to reflect that the Senators from Nevada withdraw their objection and that the vote need not go forth.

Mr. GRASSLEY. I have been informed by staff that we will work on that agreement, and it seems that can be accomplished.

The PRESIDING OFFICER. Under the previous order, the Senator from New York, Mr. SCHUMER, is recognized to call up his amendments.

Mr. SCHUMER. I thank the Chair.

First, I ask that the amendment be considered as read. It is at the desk.

The PRESIDING OFFICER. To which amendment is the Senator referring?

Mr. SCHUMER. Amendment No. 2763. On the other amendment, I just inform my good friend from Iowa, we are trying to work out a compromise and we may not have to debate it—the one on the safe harbor.

Mr. GRASSLEY. We think we can.

Mr. SCHUMER. So we now call up amendment No. 2763, and if we cannot work out a compromise on the other, then I would reserve the right to bring it up.

AMENDMENT NO. 2763

(Purpose: To ensure that debts incurred as a result of clinic violence are nondischargeable)

The PRESIDING OFFICER. Amendment No. 2763 is currently pending before the Senate.

The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mrs. FEINSTEIN, Mr. LEAHY, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. DURBIN, proposes an amendment numbered 2763.

The amendment is as follows:

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

SEC. 322. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH THE COMMISSION OF VIOLENCE AT CLINICS.

Section 523(a) of title 11, United States Code, as amended by section 224 of this Act, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19)(B), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an actual or potential action under section 248 of title 18;

''(B) an actual or potential action under any Federal, State, or local law, the purpose of which is to protect—

''(i) access to a health care facility, including a facility providing reproductive health services, as defined in section 248(e) of title 18 (referred to in this paragraph as a 'health care facility'); or

''(ii) the provision of health services, including reproductive health services (referred to in this paragraph as 'health services');

''(C) an actual or potential action alleging the violation of any Federal, State, or local statutory or common law, including chapter 96 of title 18 and the Federal civil rights laws (including sections 1977 through 1980 of the Revised Statutes) that results from the debtor's actual, attempted, or alleged—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against any person—

''(I) because that person provides or has provided health services;

''(II) because that person is or has been obtaining health services; or

''(III) to deter that person, any other person, or a class of persons from obtaining or providing health services; or

''(ii) damage or destruction of property of a health care facility; or

''(D) an actual or alleged violation of a court order or injunction that protects access to a health care facility or the provision of health services.''.

Mr. SCHUMER. Mr. President, I ask unanimous consent that Senators SNOWE, REID, JEFFORDS, and KENNEDY be added as cosponsors.

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

Mr. SCHUMER. Mr. President, I am offering this amendment along with Senators SNOWE and REID, JEFFORDS, FEINSTEIN, LEAHY, MURRAY, KENNEDY, LAUTENBERG, and DURBIN to ensure justice is served for those who willfully and gleefully thumb their noses at clinic protection laws by feigning bankruptcy. This amendment makes debts incurred as a result of acts of clinic violence nondischargeable under the bankruptcy code, and it does this clearly and unequivocally. In other words, this amendment will hold the perpetrators of clinic violence responsible for the damage they incur when they imperil, through either violence or intimidation, a woman's legal right to choose.

The history of this amendment goes back several years. Before 1994, a woman's right to choose, guarded carefully by the Supreme Court, was imperiled. That is because a small and radical minority sought to intimidate, to harass, and ultimately commit violence against clinics that offered women their right, their constitutional right for an abortion.

The chart tells the story. Acts of violence were way up, to 437. It reached its peak in 1993. Acts of disruption went to 3,379 and blockades, including arrests, went to 3,885. In many parts of this country a constitutional right—whether one agrees with it or not—was being prohibited by a very small minority who believed their view was more important than our democratically chosen, American people chosen view.

As a result, this body, in a fine moment, gathered together and said the rule of law must prevail whatever our views, pro-choice or pro-life. I was sponsor of the FACE Act in the House. Senator KENNEDY was the sponsor of the FACE Act in the Senate. Very simply, it said this kind of violence and intimidation had to stop. The major tool it used was to give these beleaguered clinics the right to sue those who committed violence.

It was a proud moment on the floor of this body when, with strong bipartisan support and strong support across pro-choice and pro-life lines, this amendment was agreed to, 69–30, in 1994. It was a proud moment for me in the House when I joined with my friend, Congressman HENRY HYDE—perhaps the leading voice of true conviction on the pro-life side—to support this amendment. Congressman HYDE knew that America depended on the rule of law.

The act had dramatic effects. If you look at the statistics, acts of violence went down, from 437 in 1993 to 113 in 1998. Similarly, acts of disruption went down, from 3,379 down to 2,600. The law was working. But, unfortunately, that extreme few has found a new way to avoid the law and threaten the kind of stasis, the kind of peace, the kind of coming together we had found in this body. What they have done is, when they get a judgment against the type of violence depicted here, they declare bankruptcy and the law cannot be enforced against them.

Randal Terry has $1.6 million in judgments against him. So far not a nickel has been collected. Flip Benham brags he will never pay a cent.

Perhaps the most extreme is the case of the Nuremberg Files, which has, today, its 1-year anniversary of a jury verdict of $109 million against those who put it together. The Nuremberg Files was a group of extremists. They published the names of doctors and accused them of murder. They published the addresses where their children went to school. Their graphic on the computer had blood dripping from the pictures of the doctors. They published the name of Dr. Slepian, who was murdered, and after a doctor was injured they put the name in gray. After a doctor was killed, as in Dr. Slepian's case, from my State of New York, up in Buffalo, they put an X through the name.

Because of their activities, because of the ''wanted'' posters, where three doctors were killed once they put out ''wanted'' posters, a Federal court in Oregon urged the judgment against them. That judgment, the jury verdict, was 1 year ago today.

What did the defendants in that case do? The judge knew they would try to clean themselves of their assets and divest them. So the judge ordered them not to divest themselves of their assets. In each case, 2 or 3 days before they were to come to the court for a disposition of how they were going to pay their fine, they went back to their home States and declared bankruptcy. This horrible, horrible situation was compounded by the use of a bankruptcy law that no one in this body or anywhere else intended to be for that purpose.

This is what the attorney for the defendants in the Nuremberg Files case said:

> The jury charge in this case created a negligence standard for threats. The charge on punitive damages embraces reckless or malicious conduct and my understanding is that reckless conduct does not preclude a discharge in bankruptcy.

Anyone who says our present laws cover this horrible situation and the many others like it ought to listen to the very lawyer in the Nuremberg Files case.

So no money has been collected, not only from the Nuremberg Files defendants but from all the others who are laughing at our law. They have gone back to their States and now the whole issue will be litigated again. Because we do not have a law, they will debate again whether the conduct was reckless—which is what the lawyers claim the jury verdict called for—or whether it was violent, in which case it would be covered by present law.

So the reason we are here today, the reason this vote has been so contested, is because a major tenet of our democracy is at stake—the rule of law. We talked about the rule of law last year at this time in this Chamber. If there was ever a case that cried out for

Democrats and Republicans coming together, for pro-choice and pro-life people coming together, it is this very case.

Let me answer a few questions that have been brought up about this amendment. First, is this a move by the pro-choice movement to move the goalposts? Absolutely not. My lead cosponsor on the Democratic side, Senator REID, is probably the foremost advocate on the pro-life side on our side. I respect his view. HENRY HYDE supported the FACE law. Others who disagree with my view on choice have also come to support FACE and the amendment. It is not pro-life or pro-choice, it is pro rule of law. It is pro-American.

Second, some say it is already covered by the willful and malicious exception in the bankruptcy law. It is true that if there is a willful, intentional, malicious tort, it might be covered by the bankruptcy law. But it would have to go to each bankruptcy court, as in the Nuremberg Files case, after the judgment. Without our statute, it would have to go back to each bankruptcy court in the State and be litigated. Then there would be one determination or another.

But what about these types of cases? What about situations where there is reckless conduct but not malicious conduct? The lawyer in the Nuremberg Files matter—clearly conduct we wish to prohibit—said it was reckless, not malicious, and would not be covered by the exception in the bankruptcy law.

What about the case where there is no intent? Thousands come and blockade a clinic but they say: My intent was not to create any violence. Then you would have to prove, for each one of those defendants, their own intent, a next to impossible job.

What about contempt orders? Everyone agrees that contempt orders are not covered by the exception.

So for anyone to argue the present law covers this, I say two things to you: No, it does not. And if you believe it does, there is no reason not to make sure that it does by passing our amendment.

How about some from the other side who argue bankruptcy should not be used to promote public policy? We are not promoting public policy. In fact, it is those who have declared bankruptcy after committing terrible acts who are seeking to use the bankruptcy code for public policy goals. The bankruptcy code was never intended that way. What we are doing by this amendment is protecting the bankruptcy code from those who seek to twist it and turn it and use it for their goals in public policy. In fact, we have done it before in this Chamber. We did it, with almost unanimous support, for drunken drivers. There is an exception in the code for that. It is a horrible thing—so is this.

I argue one more thing to my colleagues. This is the first time we have had an organized movement in America that seeks to use the bankruptcy code for these purposes. They tell people how to declare bankruptcy. One of the major organizations says you have to be judgment proof before you can join it. I have never seen that before in this country—I don't think anyone has—where an organized group seeks to subvert the law and then tells its members you can avoid its consequences by declaring bankruptcy.

One final question. I do not know if my colleagues from the other side will have an amendment similar to this. The Senator from Iowa is shaking his head no. But we have not seen one so far, and the amendment can only argue one of two things.

Mr. GRASSLEY. I just don't know.

Mr. SCHUMER. He doesn't know. I appreciate my friend's candor, although we have been debating this. This amendment came up in the Judiciary Committee in October or November and we do not know. But I argue to my colleagues, whatever you think of the other amendment, if it covers this it cannot hurt to have this one. If it does not cover it, we need it.

I do not have any predisposition, having not seen the amendment, whether you vote for or against an alternative. But voting for or against that alternative will not solve the problem. Voting yes or no on this amendment will.

In conclusion, this amendment and this debate—on its surface about somewhat arcane provisions in the bankruptcy law—is what America is all about. We have always had people with deeply felt views. The bishop in my community every month says the Rosary in front of an abortion clinic.

I disagree with his views. Bishop Daily is a fine man. I would defend his right to do that. I would vote for legislation that would allow him to do that.

We have always had people in America of strongly held views, but every so often we have people whose views not only are strongly held but who believe because they believe it, they should subvert the will of the American people, they should take the law into their own hands.

This happened shortly after the founding of the Republic. It happened throughout the 19th century. It happened throughout the 20th century. Every time that has happened, the Members of this distinguished body have risen and said we must defend the rule of law because nothing is more sacred to America.

People have uttered courageous speeches on the floor of this Chamber about that, even if they did not agree with the specific view. This is one such moment.

The vote is close. It is neck and neck. The Vice President has graciously agreed to interrupt his schedule to be here because the vote is so close and because this bill and this amendment is so important.

I urge my colleagues to look into your hearts and souls. You walk with America. We do it every day in this Chamber. Do not turn your back on what you know is right. Do not turn your back on the rule of law. Do not turn your back on what our Founding Fathers shed blood for, which is the right of a democracy to make its own decisions and not have a small band of people, for whatever reason, take decisions into their own hands.

I urge my colleagues to support this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. I hope my friend, Senator HATCH, will debate the fine points of the law with the Senator from New York because I am not a lawyer. I have strong feelings on the issue of abortion which do not have to be expressed today. My friend, the Senator from New York, has opposite views on that issue and he has not expressed them and does not have to express them as far as this amendment is concerned. I oppose this amendment simply because it is not needed.

First, I will comment on the possibility of the Vice President of the United States having to vote today to break a tie. I predict that if the Vice President is in town and this vote is that close, the Vice President will be here and will have an opportunity to cast that vote. If the Vice President is in town to break a tie, there is going to be at least one person who supports that amendment who is going to vote against it just so we can have a tie vote, just so the President can cast his vote because the Vice President running for President of the United States is not going to break into his schedule with the tight vote he had in New Hampshire last night and avoid campaigning in the other States and waste his time here if he does not actually have to cast that vote.

We are in for not only political moments on this issue, but we are in for some very constitutional moments on this issue as well.

I like the theater that is going on this morning. We have seen it at least once before, and we may see it several times between now and November. I do not blame the people on the other side for creating this theater because I think the Vice President is going to need it between now and the November election if he intends to be elected President of the United States.

Mr. SCHUMER. Will the Senator from Iowa yield?

Mr. GRASSLEY. Of course, I will yield. I know what you are going to say—that everything I have said is not true. I have seen it happen before.

Mr. SCHUMER. Let me explain to the Senator from Iowa what happened, and I realize he has not intended to cast stones.

I have been lobbying Members on this vote for the last several weeks. As the Senator knows, this amendment held up the bankruptcy bill from being voted on last year because many of us felt so strongly about it.

As of yesterday, it looked as if the vote was dead even. That is the count we have. Last night, I called the Vice President and said: It looks dead even. You make a decision, but it is an important issue to us. And he determined to come back. It has nothing to do with theater. It has nothing to do with, frankly, the politics of this campaign. It has to do with the fact that so many of us consider the FACE law—both pro-life and pro-choice—so important that we could not bear to see it undermined, particularly if it lost by a very narrow margin.

I do not know what the vote will be. I do not know what kind of arm twisting will go on between now and then. I do know there has been dramatic resistance to this amendment which held up a bill that large numbers of people on both sides of the aisle wanted very much to have come to the floor last year, and I think the remarks of the Senator from Iowa do not fit the facts in this situation regarding the Vice President.

I thank him for the graciousness of yielding.

Mr. GRASSLEY. Mr. President, before I proceed, I presume the Senator from New York is willing to have the time for his remarks come out of his time and not out of my time. I hope he will agree to that.

Mr. SCHUMER. I ask unanimous consent that each side be given an additional 10 minutes because this is an important amendment. I ask unanimous consent we each be given an additional 10 minutes.

The PRESIDING OFFICER. Is there objection to the request?

Mr. GRASSLEY. I still want the time to come out of his side.

Mr. SCHUMER. I will accept that.

The PRESIDING OFFICER. And it will be charged.

The Senator from Iowa.

Mr. GRASSLEY. I give the Senator from New York and all the other people on the other side of the aisle the benefit of the doubt, but as a matter of constitutional fact, there is always some theater when the Vice President has to cast a tie-breaking vote. Also, there is some justification for what I said, not based upon what I know is going to happen this time but what I have seen happen in the past.

The other thing I want to tell the Senator from New York, regardless of what I said about the theater, I want to base my remarks upon what I think is unneeded legislation. This gets to some of the finer points of law that I am not going to argue and debate with the Senator from New York because he would say under certain circumstances, because of intent or because of court orders, the necessity to go back to State courts, his amendment will enhance the protection of people about whom he is concerned. Those are not serious considerations. His amendment is not needed.

First of all, it is very necessary to say, and I hope the Senator from New York will not take offense with this, that we would not even be debating this amendment or anything with bankruptcy if he had his way because he was one of those who voted against the bankruptcy legislation. I do not fault the Senator from New York for doing that. That is, obviously, his right.

He can say he wants bankruptcy legislation and he voted against it because this amendment was not included or maybe he is against bankruptcy generally, but the fact is that he voted against the bankruptcy reform bill we have before us.

People who generally do not want a bankruptcy reform bill have proposed some pretty politically sensitive amendments—and this is one of them—that are basically a distraction from the real issue of why we need bankruptcy reform. I do not need to repeat what I said yesterday, such as we have had a 100-percent increase in personal bankruptcies over the last 7 or 8 years. From that standpoint, we have a very serious social and economic problem with which we have to deal, and particularly the way the present bankruptcy code is written, the amendment is not needed. I want to state why it is not needed because my colleagues are entitled to know.

I hope a lot of the people in this Chamber who want a bankruptcy reform bill will view this amendment in its proper context of being proposed as a distraction from the real issues of bankruptcy reform, particularly since I am going to convince them that this amendment is not needed based upon the way the present law is written.

But putting aside the obvious political nature of the amendment, this amendment should fail on its merits. The amendment would make judgments resulting from violent as well as nonviolent activities engaged in by pro-life activists nondischargeable in chapter 7 bankruptcy.

The amendment does not provide for the same treatment for violent or nonviolent activities engaged in by prochoice activists. In other words, this amendment does not even pretend to be fair and balanced. It is an effort aimed only at one side of this very hot political debate that is known as the abortion debate. I do not think the Senate should change bankruptcy policy in such a one-sided way.

But the amendment does not even accomplish its one-sided goal. The amendment only affects chapter 7 bankruptcy. So I want to give you a second reason for being against it, based upon the fact that it fails on its own merits. Since it only affects chapter 7 bankruptcy, there is another way that people who are affected by this amendment, who want to go into bankruptcy to protect themselves, can do it. They can do that through chapter 13 because the amendment does not make any new debts nondischargeable in chapter 13. So any of the people to whom the Senator from New York refers to that his amendment is necessary for could file under chapter 13, pay pennies on the dollar, and walk away from debt.

As I said when I voted on this amendment in the Judiciary Committee, the nonpartisan Congressional Research Service has concluded that court judgments resulting from violations of the FACE Act are already nondischargeable in chapter 7 under politically neutral provisions of section 523 of the code. This amendment, the Congressional Research Service says, isn't needed.

Finally, it is worth noting that some Senators on the Democratic side have been very critical of making new categories of nondischargeable debts. If you listen to the White House—and we have listened to the White House quite a bit on this bill and have tried to satisfy people by making changes in it that have not hurt our general approach—if you listen to these same people, who have been listened to by me and other people in this body who want bankruptcy reform, you hear that anytime you create nondischargeable debts, the collection of child support suffers. I will bet the Senator from New York has made this same point on other nondischargeable debts concerning child support.

Some of those concerns have been very legitimate. We have responded to them. I guess I would have to say, from where I started 2 years ago on this legislation, I have been educated on some of the writing of our original bill to make those changes so that we make child support No. 1 in our considerations in bankruptcy courts.

But the White House, regardless, is saying nondischargeable debts make collection of child support much more difficult. But here we have an amendment from the minority to create a nondischargeable debt. So based on the arguments of the White House, this amendment should be rejected because it hurts child support claimants.

This is a very serious inconsistency on the part of people, particularly on the other side of the aisle, in proposing this amendment. The fact is, bankruptcy reform is so popular with the American people, so popular with Members of the Senate, that those who oppose real bankruptcy reform look for distractions, distractions based on the merits of their amendment, based on their opposition to the legislation, but also a needless distraction.

If, in their good conscience, they believe their amendment is needed, it in fact isn't needed because our bankruptcy code already deals, in a nonpolitical way, with these political questions that people believe can only be responded to by making one more thing nondischargeable.

This amendment is, on balance, a distraction and should fail for the reason it was offered. But, most importantly, it should fail on its merits. The merits just do not call for its adoption. I have expressed my views on that.

I yield the floor and ask our people to vote against it.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New York.

Mr. SCHUMER. I yield 4 minutes to the distinguished Senator from the State of Washington, a cosponsor of this legislation.

The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mrs. MURRAY. Mr. President, let me assure my colleagues, this issue is not about theater. It is about the very real issue of violence against women. I join with my colleague, the Senator from New York, and thank him for his work on this amendment and urge my colleagues to support it.

This amendment is not about abortion. This amendment is about violence against women. We cannot allow violent extremists to use the bankruptcy code to carry out their agenda of violence.

If anyone thinks this is simply another abortion or choice issue, let me point out to all of you, there are groups and individuals who teach violent protesters how to protect their financial assets in the event of a civil or criminal penalty. There are classes one can take or pamphlets one can read spelling out how violent protesters can get around any punitive financial damage by simply running to bankruptcy court.

It is simply beyond comprehension how we can allow those convicted of violence and intimidation to be excused from punitive financial penalties. If we are serious about reducing violence and sending the right message to our children, we must support the Schumer amendment.

In 1998, there were two murders and one attempted murder of clinic workers. Since 1990, abortion clinic arson and bombings have resulted in over $8.5 million in damages. Two bombs were recently discovered at clinics in Kentucky and Ohio. Every day, women are harassed and intimidated as they seek proper health care services. This violence must stop, and those responsible must be held accountable.

Passage of the Schumer amendment will send the message that violence will not be tolerated. Peaceful protests will continue. Each individual has a right to freely express their views and their opinions. But no one has a right to carry out a campaign of fear and violence.

For too many women, these clinics are their only access to health care, including cancer screening and prenatal care. Constant and violent threats diminish access to health care for hundreds of women and subject them to unreasonable abuse and intimidation. Do not reward those who seek to deny women access to legal, affordable health care services.

Mr. President, I urge my colleagues to do the right thing and support the Schumer amendment.

I yield back my time to the Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 17½ minutes remaining.

Mr. SCHUMER. Mr. President, how much on our side?

The PRESIDING OFFICER. The Senator from New York has 9 minutes remaining.

Mr. SCHUMER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, bankruptcy law already covers willful, malicious, intentional conduct about which the distinguished Senator from Washington has been talking.

I rise to speak in opposition to this amendment offered by the Senator from New York. Nobody in this body condones violence of any kind. There is no excuse for it; that is, whether it is committed at an abortion clinic, whether it is committed by labor unions, or whether it is committed against churches, or for any other reason. But this amendment has nothing legitimate to do with bankruptcy reform. In my view, we should focus on our task of providing real bankruptcy relief for the American people.

This amendment is unnecessary. It provides that debts and liabilities arising from abortion clinic violence would not be dischargeable in bankruptcy. There simply is no need to place damages regarding access to abortions in a special class with special protections above other damages for other actions, including, for example, actions under civil rights laws. Not only is it poor policy to segregate certain classes of violence for special status in bankruptcy, but the bankruptcy code already allows for the nondischargeability of debts for ''willful and malicious injury by the debtor.'' This is already taken care of, if that is what the Senator is really concerned about, willful and malicious injury caused by the debtor. Indeed, I asked to include a summary of a recent case in the RECORD.

In that case, the Behn case, it is said, in a newspaper report of that case:

> A veteran anti-abortion protester cannot use bankruptcy to erase a debt of more than $50,000 in court-imposed fines, legal fees and interest she owes a Buffalo clinic that performs abortions, a federal judge has ruled.
>
> ''If anyone thought they might escape penalties for violating a judge's order through bankruptcy,'' said Glenn E. Murray, a lawyer who represented the clinic, ''they should read this decision.''

Already the law takes care of what the distinguished Senator from New York would like to have taken care of.

Notwithstanding that this amendment is entitled ''Nondischargeability of Debts Incurred Through the Commission of Violence at Clinics,'' its reach extends much more broadly. That is where the danger comes in.

For example, the amendment, by its own terms, is not limited to acts of violence, as the title would lead us to believe, but covers acts of ''interference with'' a person seeking an abortion, whatever that means. In addition, the amendment refers to ''an actual or potential action under any Federal, State, or local law'' having to do with providing abortions.

As I read this language, it goes far beyond the discrete issue of violence at abortion clinics. In fact, if you read this language in the actual amendment, it has some very strange language in it. It says, in paragraph (3)(C):

> an actual or potential action alleging the violation of any Federal, State, or local statutory or common law, including chapter 96 of title 18 and the Federal civil rights laws (including sections 1977 through 1980 of the Revised Statutes) that results from the debtor's actual, attempted, or alleged—(i) harassment of, intimidation of, interference with, obstruction of . . .

Then it gets into injury to, threat to, or violence against any person. Look at that language: harassment, intimidation, interference. My goodness.

I urge my colleagues to read the actual text of the amendment before they vote. If they believe they are voting on an amendment that strictly covers acts of violence at abortion clinics, they are mistaken. Who knows how this amendment is going to be applied otherwise. The bankruptcy law already takes care of violence, abortion clinic violence, if you will. It does not discharge that in bankruptcy. The cases so state. I do not think we should fail to recognize that the bankruptcy code already provides or allows for the nondischargeability of debts ''for willful and malicious injury by the debtor.''

This goes far beyond real injury. This actually could be used to oppress people who legitimately feel otherwise than the abortion clinic does. I urge my colleagues to reject this amendment. At the appropriate time, I am sure the distinguished Senator from Iowa or myself will move to table the amendment. I hope we can reject this amendment. I hope it is not necessary for the Vice President to come and break a tie vote on this matter. I think this would be catastrophic language in the bankruptcy code, which already does take care of violence at abortion clinics. Case law so states.

This is just another overreach by those who want to make a political issue out of something that does not deserve to be in the bankruptcy code, although I believe it is a sincere overreach that perhaps is not considered such by my dear friend from New York, for whom I have a lot of esteem in the law. I am concerned about this kind of language. It is very broad, very undefined. No question that it goes far beyond actual injury, far beyond malicious conduct, far beyond willful and malicious injury that the bankruptcy code already covers. We have enough in the code to take care of problems at abortion clinics without putting in harassment, intimidation, interference, and obstruction into the bankruptcy code.

I reserve the remainder of our time.

Mr. SCHUMER. Mr. President, I yield 3 minutes to the distinguished Senator from Nevada, cosponsor of this amendment and one of its leaders.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes.

Mr. REID. Mr. President, I appreciate very much the statement of the Senator from Iowa where he tried to indicate that the Vice President was coming here because of some problem in the campaign. I direct the attention of the Senator from Iowa to what really took place in New Hampshire last night. As every political pundit in America has stated, Democrat and Republican, those who are neutral, Bush was bushwhacked in New Hampshire. That is the real problem. I appreciate the Senator's attempt to divert attention from the fact that there really was a problem in New Hampshire for Governor Bush.

In the year 1215, in a meadow in England, a group of barons were with King John. King John couldn't sign his name, but he did affix his cross, his X, to a document that we now call the Magna Carta. The reason that was so important in our history is because it was the beginning of common law. It was the beginning of the rule of law that we adopted when we became a nation. We followed the English common law which started with Runnymeade and the Magna Carta. It established the rule of law, not a rule of kings, not a rule of demagogues, not a rule of zealots but a rule where we follow the law.

That is what this debate is about today. There are a group of people in America today who recognize there is a law, but they are above it. They don't have to follow it. They can go and use butyric acid, fire, bullets, guns, causing murder, disruption of businesses. They can, of course, cause all these blockades, and people who disagree have said what you are doing is wrong. You are avoiding the law, and we are going to take you to court and have a court of law determine that you are wrong, and you are going to have to respond in money damages for the violence and the disruption in business and the damage that you have caused. They have gone to court and they have won those lawsuits. They have had money judgments rendered against them. These people who caused this disruption of business, who threw this acid in people's faces in clinics, who set fires, who murdered people, they say we are above the law; we don't have to follow it because we disagree with the law.

We are a country that has a rule of law. These people should not be able to discharge these debts in bankruptcy. That is what this amendment is all about.

We recognize that violence and terror are worsening every day in this world, and we have to stop it. This is one method of stopping it. One of the reasons these people flout the law is they say don't have to follow the law.

Mr. President, these people intimidate. They recognize that they do not have to be held accountable. Today, what we are saying is we must act to ensure that we live in a law-abiding society. This amendment does that by saying that those who have a judgment rendered against them in a court of law, where the court has determined that they engaged in unlawful acts of intimidation and violence, can't escape responsibility for their actions in bankruptcy court.

I believe in our system of justice, where courts and juries make decisions that we as the American public must follow. Some people don't believe in our system of justice; they don't believe in our system of trial by jury and court determinations. They believe money damages awarded against them mean nothing because they are going to discharge them in bankruptcy. In effect, they believe the law is for everybody else but them. We think that is wrong and that is why we should have an overwhelming vote in the Senate. The Vice President, even though he is going to be here, should not have to break a tie. People of good conscience on both sides of the aisle should vote in favor of this amendment. It is the right thing to do because it upholds the rule of law.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, look, let's not get this amendment mixed up. The current law takes care of actual injury. It takes care of malicious injury and willful injury by the debtor. That is not discharged in bankruptcy. So it has nothing to do with violence. The current law takes care of that.

None of us condone violence. That is not what this amendment is about. Look at the doggone language of this amendment. It is unbelievable. What it says here is, ''an actual or potential action alleging the violation of any Federal, State, or local statutory or common law'' and ''that results from the debtor's actual, attempted, or alleged harassment. . .''

What does that mean? ''Intimidation of. . .'' What does that mean? If somebody says ''boo,'' are they intimidating and they could not be discharged in bankruptcy, in an unjust case in bankruptcy where they haven't caused any harm or willful malicious injury? Interference with? Obstruction of? This is an overreach if there ever was one, since we already have bankruptcy law that provides nondischargeability of debts of a debtor who has caused willful or malicious injury to another person, or even to the clinic, I suppose. We should not get into a type of social engineering in the bankruptcy code since we already take care of willful and malicious activities. When you start talking about harassment, intimidation, obstruction, interference—these are words that can be used in a criminal code, but they should not be used in the bankruptcy code which already provides for willful, malicious injury by the debtor as nondischargeable in bankruptcy. I think when we get into that stuff we are getting into areas that basically disrupt the code and should not be part of the code.

None of us tolerate or approve of violence at the abortion clinics. Some of these anti-abortion people who have committed violence should be punished to the full extent of the law. They should not be allowed to get away with it. Whichever side you are on in this issue ought to be a side of debate and a side of honest debate, not a side of violence. But we take care of willful and malicious injury, which may not even be violence. It may be something that even involves negligence, I suppose. We take care of it in the current code.

Why should we amend the code just because some would like to do so with this strange and very undefined language. Plus, it is something that everybody ought to think about—improper and illegal, or should I say nonlegal, to argue that this amendment is all about violence. It is not at all. It is about extending what is already covered to areas that literally do not involve violence or malicious injury or willful and violent and malicious conduct. That is not what the bankruptcy code should be all about. I hope our colleagues will vote this amendment down.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from New York has 6 minutes.

Mr. SCHUMER. I yield myself 3 minutes.

Mr. President, I greatly respect my friend from Utah, who is a fine legislator and a fine human being. He is just dead wrong on this. Let me just answer this. He said we don't need this law, first, because the present code covers it. CRS, which is hardly known as either a pro-life or a pro-choice organization, is respected for their analysis and they say in a memorandum of June 8:

> We conclude, for the reasons discussed below, that the Schumer proposal, which would add a new subsection 19 to 523(a), is far broader in scope and would encompass a far wider range of potential debtor liability than is currently covered by 523(a)(6).

Don't rely on Senator HATCH, don't rely on Senator SCHUMER, but on 523. One other point. The Senator from Utah says everything is covered. Let's hear what the attorney said in that Nuremberg Files case, that horrible and devastating case—so bad that a jury in Oregon awarded $109 million in damages, realizing what has happened in America in terms of the death of doctors. Here is what the lawyer said:

> Your clients are nothing more than nonpriority, unsecured judgment creditors, with other judgment creditors ahead of them . . . even a car loan has priority over your judgment.

Let me repeat that so maybe my friend from Utah can hear me in the

Cloakroom: ''. . . even a car loan has priority over your judgment.''

Is that what we wanted in the present law? No, absolutely not. The record is clear. There are certain instances where the present law would cover it—narrow instances, and even in those cases, you would have to go all the way back to bankruptcy court and relitigate. But in many of these cases, the law is not clear, and in every one of these cases, you make them litigate two, three, four times. We know what the policy of these violent extremists is. It is to delay and delay and delay. They should not be allowed to use the bankruptcy code to do that.

One other point. I think my good friend from Iowa said, well, it doesn't stop violence. That might be done by pro-choice groups. Not so. If a pro-choice group were to decide to blockade a clinic, or threaten a doctor, or use violence because they did not like what that clinic was doing, they would be equally subject to the law.

The reason that statement is so absurd is because we don't have a grand movement on the pro-choice side seeking to use violence. Read the works of Randal Terry and Flip Benham and everybody else. They believe because they are morally superior to the rest of us that they have the right to take the law into their own hands and use violence.

The PRESIDING OFFICER. The Senator's 3 minutes has expired.

Mr. SCHUMER. I thank the President.

The PRESIDING OFFICER. The Senator from New York has 3 minutes remaining, and the Senator from Iowa has 6 minutes remaining.

Mr. GRASSLEY. Mr. President, we have a speaker on his way. Senator SESSIONS wants to speak.

Mr. REID. Mr. President, I am wondering. Senator LEAHY, the ranking member of the committee, could speak. Until everyone is ready, why don't we suggest the absence of a quorum so the time is reserved. I suggest the absence of a quorum and ask unanimous consent that the time not be charged to the respective sides.

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

Mr. SCHUMER. Mr. President, I ask unanimous consent, given we don't have any other business scheduled until 11 o'clock—we have other Members coming from both sides who wish to speak—that each side be given an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. I object to that. Let's wait until we use our time and make that decision at that particular time.

The PRESIDING OFFICER. Objection is observed. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, will the Senator from New York yield 2 minutes?

Mr. SCHUMER. I am happy to yield 2 minutes to the distinguished ranking member of the Judiciary Committee, who has been a guiding inspiration.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I very proudly cosponsored the amendment of the Senator from New York. Senator SCHUMER's amendment on debts incurred through the commission of violence to health service clinics is a good one. It closes a real-life loophole in our bankruptcy code because some people are using the bankruptcy laws to avoid paying debts arising from clinic violence.

That is a dangerous precedent that Congress should stop. It would be the same if somebody was doing this using the bankruptcy laws to escape paying bills for violence against anybody, whether groups with which I agree or groups with which I disagree.

We should not use the bankruptcy laws for this. It is wrong to allow court judgments under the Freedom of Access to Clinic Entrances Act to be discharged under our bankruptcy laws. In fact, 12 individuals who created the Nuremberg Files web site filed bankruptcy to avoid their debts under the law.

If I could make a personal note on this, at a time when a doctor was murdered in New York because his name was on the Nuremberg Files, within days they determined that the chief suspect was a man from Vermont. I went to the Nuremberg Files. My name was listed among those to be shot.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. LEAHY. I ask for another 30 seconds.

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

Mr. LEAHY. This was a very chilling thing for both me and my family. To think somebody could use laws to escape any penalties they might receive under their use of our bankruptcy laws is wrong.

I agree with the Senator from New York.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, it will be charged equally between the two sides.

Mr. SCHUMER. Mr. President, might I renew the request of Senator REID that we have a quorum call not to be counted against either side until Senator SESSIONS can get here? Is there a way?

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

Mr. GRASSLEY. We have done it that way already.

Mr. REID. I am sorry. I sure wasn't in on the request.

Mr. SCHUMER. If I might answer the question—Mr. President, may I respond to Senator REID's question?

The PRESIDING OFFICER. Is the Senator from New York suggesting the absence of a quorum without the time being charged to either side?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I discussed this with the Senator from Iowa, and he has graciously agreed to 1½ additional minutes.

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

Mr. SCHUMER. Then all time will have expired. Is that right? OK.

I thank the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa has 6 minutes.

Mr. GRASSLEY. We will take care of ours. We will yield it.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I say in conclusion to my colleagues that this is an extremely important amendment to keep a bipartisan law, the FACE law, alive and well. If we don't pass this amendment, there will be hundreds and hundreds of instances where people perpetrate violence, and violate the FACE law, and they will not be held accountable.

Let me repeat again what the Nuremberg Files people, who list Members of this body as people who ought to be looked at, say:

> The judgment in this case, in my view, is not only . . . non-priority unsecured debt but fully dischargeable debt.
>
> Even a car loan has priority over your judgment.

That makes a mockery of the rule of law in this country. This is not a pro-choice or a pro-life law. This is the law that says those who seek violence, threat, and intimidation against legal clinics in America because they somehow feel they have a moral superiority to every one of us will be punished for their actions.

It is a desperately needed proposal. I urge my colleagues to support it.

I yield the floor.

Mr. L. CHAFEE. Mr. President, clinics that provide family planning services and counseling as well as abortions are engaged in an honest, law-abiding activity. These services enable women to exercise their right to make reasoned and informed decisions about their reproductive futures. Yet, given the escalating culture of violence surrounding these clinics, abortion providers and clinic workers risk their lives coming to work each day.

In my own state of Rhode Island, I have heard troubling reports of clinic violence from people such as Pablo Rodriguez M.D., medical director of Planned Parenthood Rhode Island.

Although Congress has made strides to stem clinic violence by passing the Freedom of Access to Clinic Entrances Act (FACE), this statute has not been a panacea. While FACE empowered those victimized by clinic violence to sue, many plaintiffs found liable in civil court for clinic violence seek refuge under our nation's bankruptcy law to avoid paying the financial penalties levied against them.

Providing women's health services is legal; clinic violence is not. I believe we must do anything we can to discourage these horrible acts of violence. Senator SCHUMER's amendment closes a loophole that allows perpetrators of clinic violence to escape the consequences of their actions.

The bankruptcy code was intended to provide a fresh start for honest debtors, not those who have violated the law and endangered innocent lives. Therefore, I urge my colleagues to vote in favor of Senator SCHUMER's amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent the 10 minutes set aside for the Harkin amendment be given to Senator KENNEDY to speak on the bill.

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

Mr. REID. Following the statement by Senator KENNEDY, the amendment will be withdrawn.

The PRESIDING OFFICER. The Harkin amendment is not pending.

Mr. REID. I ask unanimous consent the amendment that is now pending be set aside and the Harkin amendment be in order.

The PRESIDING OFFICER. For 10 minutes?

Mr. REID. Yes, and following the statement by Senator KENNEDY, the amendment be withdrawn. And, of course it goes without saying, the time of the majority would be reserved, not be taken as a result of this unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I thank the Chair.

AMENDMENT NO. 2770

(Purpose: Invalidating hidden security interests on nearly valueless household liens)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HARKIN, proposes an amendment numbered 2770.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following section:

SEC. . (a) INVALIDATING HIDDEN SECURITY INTERESTS AND NEARLY VALUELESS HOUSEHOLD LIENS

(1) EXEMPT PROPERTY.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4) A lien held by a creditor on an interest of the debtor in any item of household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor shall be void unless—

''(A) the holder of the lien files with the court and serves on the debtor, within 30 days after the meeting of creditors or before the hearing on confirmation of a plan, whichever occurs first, a sworn declaration that the purchase price for the particular item that is subject to such lien exceeded $1,000 or that the item was purchased within 180 days prior to the filing of the bankruptcy petition, and

''(B)(i) the debtor does not timely object to such declaration; or

''(ii)(I) the debtor objects to such declaration; and

''(II) the court finds that the purchase price of the item exceeded $1,000 or that the item was purchased within 180 days prior to the filing of the bankruptcy petition and that such lien is not avoidable under paragraph (f)(1) of this section.''.

(2) CONFORMING AMENDMENTS—Section 104(b)(1) of title 11, United States Code, is amended by inserting '522(f),' after '522(d)'.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. I thank the leaders.

Mr. President, I yield myself 8 minutes at this time.

The PRESIDING OFFICER. The Senator will be recognized for 8 minutes.

Mr. KENNEDY. Mr. President, as the Senate completes its work on the bankruptcy bill, we are more aware than ever of the potential impact of this legislation on American citizens and businesses.

This legislation purports to reform the bankruptcy system and eliminate debtor abuses, and the banking and credit card industries have been urging action on it for the past two years. They argue that during this time of economic expansion, Congress should deal with the increase in bankruptcy filings by curtailing pervasive debtor fraud. If Congress doesn't act, they say, the economy will suffer.

But the industry's cure is worse than the disease. First, they fail to acknowledge a key fact—the steady decline in bankruptcy filings. Without any action by Congress, the number of bankruptcy filings is going down. Filings have dropped in 42 states. Overall, there were 112,000 fewer personal bankruptcies in 1999 than in 1998—the largest one-year drop on record.

Leading economists believe that the bankruptcy crisis is self-correcting. The significant drop in filing is ample indication that a harsh bankruptcy bill is not needed.

It is abundantly clear that the bill before us is unnecessarily harsh. As House Judiciary Committee Chairman HENRY HYDE acknowledged, it contains dozens of provisions that favor creditors, and it fails to address the serious problems that often force citizens into bankruptcy.

The bill will make it more difficult for thousands of debtors who file for bankruptcy because of the layoffs and corporate downsizing that take place after mergers, and that are ordered by businesses to improve profits.

This bill also makes it more difficult for families already torn apart by divorce—particularly divorced women, who are four times more likely to file for bankruptcy than married women or single men.

The bill would also have a devastating effect on the millions of Americans who have no health insurance or substandard coverage. For almost 20 percent of those filing for bankruptcy protection, a health-related problem led to their economic problems.

Earlier in the debate we took the time of the Senate to go through each of those categories, the numbers of people who went into bankruptcy as a result of the mergers and downsizing of major companies and corporations. These are American men and women who have worked hard all of their lives and through no fault of their own were put in very difficult economic straits and run into bankruptcy.

Because of the escalation of divorce, large numbers of single women are particularly vulnerable, because of their credit situation, to run into problems with bankruptcy. We have seen with the decline of health care coverage, particularly among older workers in their fifties, before they are eligible for Medicare, they have been the increasing targets of bankruptcy. These are groups of Americans who have been hard-working all of their lives and now are going to be caught up in this particular legislation which I think is particularly harsh on these individuals, and needlessly so.

In addition, this bill fails to significantly address the serious problems created by the credit card industry. In an average month, 7 percent of all households in the country receive a credit card solicitation. In recent years, the credit card industry has also begun to offer new lines of credit targeted at people with low incomes—people they know cannot afford to pile up credit card debt.

Facts such as these have reduced the economic stability of millions of families, and have led many of them to file for bankruptcy. Two out of every three bankruptcy filers have an employment problem. One out of every five has a health-care problem. Divorced or separated people are three times more likely than married couples to file for bankruptcy. Working men and women in economic free fall often have no choice except bankruptcy.

Although the Senate spent two weeks debating and amending the bankruptcy

bill last year and several additional days this year, this bill still does not acknowledge the problems that force so many Americans into bankruptcy. It remains heavily tilted toward the financial services industry, and many needed amendments were defeated.

Simultaneously, amendments were adopted that should be an embarrassment to the Senate. By a one-vote margin, the Senate adopted an amendment that provides for school vouchers, as well as harmful changes in the nation's anti-drug policy.

The Republican leadership offered a watered-down minimum wage increase, tied to a poison pill that cuts overtime pay, and an enormous $71 billion in tax breaks that disproportionately benefit the wealthiest Americans. Those provisions are now part of this bankruptcy bill—making a bad bill even worse.

By failing to increase the minimum wage last year, Congress failed the American people. It is time—long past time—to raise the minimum wage.

Our proposal is modest—a one dollar increase in two installments—50 cents now, and 50 cents a year from now. Over 10 million American workers will benefit. Our position is clear, it's ''50–50 or fight!''

Our Democratic proposal to increase the minimum wage by a dollar over the next year will make a significant difference in the lives of all workers who earn the minimum wage and their families.

Unlike the Republican proposal, our Democratic proposal will give minimum wage workers the pay raise they need and deserve, so that they can care more effectively for their families and pay for the food and clothing and housing they need.

We shouldn't delay an increase. We shouldn't stretch it out. We shouldn't use it to slash overtime pay. We shouldn't use it as an excuse to give tax breaks to the wealthy.

Raising the minimum wage is an issue of fairness and dignity. No one who works for a living should have to live in poverty.

Before casting our final votes on this legislation, we have the opportunity to adopt several very important amendments that deserve our support. Yesterday, we started debate on the Levin-Durbin gun amendment, which would prevent gun manufacturers from abusing the bankruptcy system.

Today, Senator SCHUMER offered an amendment that eliminates a loop-hole currently being exploited by perpetrators of clinic violence.

Senator SCHUMER's proposed amendment is neither a prochoice amendment nor an anti-choice amendment. At its heart, it is not about abortion at all. Rather, it is about accountability for violent, illegal acts. It is about preventing those who use tactics of violence and intimidation against reproductive health clinics from using the bankruptcy laws as a shield from financial liability for their unlawful acts.

In response to a wave of violence which included murder, arson, bombing and harassment, Congress enacted the Freedom of Access to Clinic Entrances Act in 1994. That Act established criminal penalties and financial penalties for violence and intimidation directed against reproductive health service patients and providers.

I'm proud to be the Senate author of that legislation because since its passage, incidents of clinic violence have declined significantly. In addition, under the act and other federal and state laws, victims of clinic violence have been able to obtain remedies, and perpetrators of unlawful clinic violence have paid substantial fines and civil penalties.

Unfortunately, some of these offenders are attempting to evade their liability by exploiting the bankruptcy system.

For example, last year a federal judge ordered two anti-abortion groups and twelve individuals to pay in excess of $107 million for anti-choice activities and threats. However, within the last few months, five of those defendants, who collectively owe more than $45.5 million in clinic-violence debts, filed for bankruptcy to avoid the judgments.

For over 100 years, our bankruptcy system has enabled honest debtors to receive a fresh start—but, the bankruptcy laws were never intended to be a safe haven for the deliberate disregard of Federal or State laws.

The Schumer amendment preserves the integrity of the bankruptcy laws, and I urge my colleagues to support it.

The Schumer amendment, the Levin amendment, and others are critical in the needed effort to salvage this bill. Our goal is to enact responsible bankruptcy reform, not a sweetheart deal for the credit card industry.

Mr. President, at the appropriate time, I intend to offer a motion to instruct the conferees on the bankruptcy bill to fix the deeply flawed minimum wage proposal contained in the bill. The watered-down wage proposal in this bill is an insult to the hard-working men and women earning the minimum wage. In this time of plenty, we must not shortchange these workers. We should provide a 50-cent raise now and 50 cents a year from now.

Finally, it is fair to ask when we look at any piece of legislation we do who is going to benefit and who is going to lose. As has been demonstrated during the hearings and during the debate, just about every thoughtful person who has studied the bankruptcy bills remarks about how Congress, over the history of our Nation, has proposed bankruptcy bills which have been balanced between the debtor and the creditor, with the understanding that there are so many millions of Americans who may fall onto hard times briefly but are hard-working, decent people.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, I ask unanimous consent that 2 minutes of the time that has been set aside for Senator FEINGOLD be allotted to Senator KENNEDY. I have cleared this with Senator FEINGOLD.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, it has been remarkably balanced, with the exception of this legislation.

Finally, when you come down to it, one has to ask who benefits and who loses. It is very clear the winners in this are the credit card companies and the losers are the hard-working men and women who have fallen on difficult times, in most instances due to no fault of their own. They are men and women who have been downsized as a result of mergers. They are men and women who have fallen into serious economic times because of the failure of their health insurance to cover those individuals. They are primarily women who, as a result of their personal relationships, have been divorced and find it difficult to maintain a system of credit.

One can look back over all of these and find they are the victims of this legislation and they are the ones who are going to suffer the harsh penalties of it. It is fundamentally wrong. We have not had the opportunity in this debate to see protections for children and mothers. The reason for the Dodd amendment is to give special protections which historically have been a part of our bankruptcy laws. That has been defeated, as well as the amendments to remedy some of the harsh provisions of the means test.

This legislation is not the legislation that passed the Congress a little over a year ago in which I joined others in supporting. This is not balanced legislation.

For those reasons, plus the fact we have $73 billion of tax breaks for wealthy individuals in here and a denial to the hardest working Americans for fairness in treating them with a minimum wage, it ought to be voted down.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield 6 minutes, or whatever he consumes of the time I have remaining on the SCHUMER amendment, to the Senator from Alabama. What he does not use I will yield back.

The PRESIDING OFFICER. The SCHUMER amendment is now pending. The Senator from Alabama is recognized.

AMENDMENT NO. 2650, AS FURTHER MODIFIED, AS PREVIOUSLY AGREED TO

Mr. SESSIONS. Mr. President, my good friend Senator REED and I have worked together for quite some time now to adopt a provision involving reaffirmations, amendment No. 2650. We have a few technical corrections to which we have agreed, and we have reached an agreement to make these technical corrections.

I send to the desk a modified amendment which includes the technical corrections. I ask unanimous consent that the original amendment No. 2650 be vitiated and that the modified amendment be accepted, substituted, and adopted in its place.

The PRESIDING OFFICER. Under the agreement, the Senator has that right. The Senator from Nevada.

Mr. REID. I have checked with the staff of Senator REED and the floor staff on this side, and there is no objection to the unanimous consent request of the Senator from Alabama.

Mr. REED. Mr. President, I rise to speak briefly on a technical amendment offered by myself and Senator SESSIONS. Senator SESSIONS and I are offering this technical amendment merely to correct some provisions which we felt were needed in order to avoid an unintended reading of the amendment. Reaffirmations are essentially agreements between creditors and consumers whereby the consumer agrees to continue to repay the debt owed the creditor, even after all other debts may be discharged in bankruptcy. Unfortunately, there have been many instances in the past in which consumers have not been well-informed going into these agreements, and in some cases have been coerced into signing them. As some of my colleagues may recall, in offering our original amendment on reaffirmations, Senator SESSIONS and I had two major goals: the first was to improve consumer's understanding of what they are doing when they agree to reaffirm a debt that they were entitled to, under the law, have discharged. The second goal was to promote efficient handling of reaffirmations in the bankruptcy process. Our November amendment developed a uniform disclosure form that is to be filed with the court along with the reaffirmation agreement into which the consumer is entering. The amendment also expands the authority of the bankruptcy court to review those reaffirmations that are most likely to fail, such as debtors whose income and other expenses clearly indicate that they do not have the ability to repay the debt which they are reaffirming. In that respect, the Reed-Sessions amendment seeks to provide courts with the information they need to determine quickly and efficiently whether these reaffirmations are appropriate or not. The specific changes that we are making today to our original amendment simply clarify certain points we felt may be open to misinterpretation. For example, we want to make it clear that the debt a consumer is reaffirming includes two totals: First is the total amount of the debt the consumer owes, and second is the total amount of any other costs accrued by the consumer since the date they were given the disclosure statement. At another point, we wanted to make clear to the consumer that the payments they would be making on the reaffirmed debt are subject to change, based on their reaffirmation or original credit agreement.

In the part of the amendment detailing certain steps the consumer needs to undertake, we wanted to make clear that consumers would not be penalized if their attorney decides not to sign the reaffirmation agreement and the disclosure statement.

We also want to make clear to consumers that in certain circumstances, they can also redeem the item, rather than reaffirming the debt they have on it. to redeem it, they can simply make one payment equal to the actual value of the item.

All of these mostly minor changes will make the original amendment that much more clear and easier for the consumer to understand when they are going through the unpleasant process of bankruptcy. With all that said, it was my hope to have another point included in the final version of this amendment, but I have agreed not to push for its inclusion at this time. This last piece that I was seeking deals with the amount of time one has to file reaffirmations. I would first like to make it clear that it is not my intention to suggest that the original Reed-Sessions amendment was unclear about the need for timely filing of reaffirmations and the new disclosure form with the court. However, in the course of discussions with consumer advocacy groups, there were strong arguments that it could be interpreted that way. Therefore, I sought what I thought was a judicious approach, which was to create a 50-day window—between the first meeting a debtor has with creditors until the time of discharge—to enter into a reaffirmation agreement. The original Reed-Sessions amendment goes to some length to carefully define the information that must be presented to the debtor, the instructions that the debtor must receive, and the conditions under which this information must be presented to the courts. However, I think we will all recognize that this information is most useful to the courts if it can be provided in a timely manner.

The underlying bill already contains a number of provisions that outline certain deadlines for actions that the consumer must undertake within the course of bankruptcy. Therefore, this new deadline would be entirely consistent with those others already present in the bill. I believe a deadline of some kind is necessary in this case as we have seen certain abuses in the past, most notable in the case of Sears, where there appeared to be no effort to file these reaffirmation agreements with the court, yet all the while consumers continue to pay as if they had been. I would also like to point out that several advocates and bankruptcy judges were consulted on the timing issue, notably Judge Eugene Weedoff of Chicago and Judge Thomas Carlson of California, as well as Professor Elizabeth Warren of Harvard University. However, I'm pleased to say that I have come to an agreement with Senator SESSIONS on the technical amendment and on addressing the timing issue with regard to filing reaffirmations. Therefore, I would urge the support of this amendment.

The amendment (No. 2650), as further modified, as previously agreed to, reads as follows:

SEC. 1. REAFFIRMATION.

In S. 625, strike section 203 and section 204(a) and (c), and insert in lieu of 204 (a) the following—

''(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) In subsection (c) by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (i) at or before the time the debtor signed the agreement.

(2) By inserting at the end of the section the following—

''(i)(1) the disclosures required under subsection (c) paragraph (2) of this section shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8) of this subsection, and shall be the only disclosures required in connection with the reaffirmation.

''(2) Disclosures made under this paragraph shall be made clearly and conspicuously and in writing. The terms ''Amount Reaffirmed'' and ''Annual Percentage Rate'' shall be disclosed more conspicuously than other terms, data or information provides in connection with this disclosure, except that the phrases ''Before agreeing to reaffirm a debt, review these important disclosures'' and ''Summary of Reaffirmation Agreement'' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs [(2) through (8)], except that the terms ''Amount Reaffirmed'' and ''Annual Percentage Rate'' must be used where indicated.

''(3) The disclosure statement required under this paragraph shall consist of the following—

''(A) The statement: ''Part A: Before agreeing to reaffirm a debt, review these important disclosures:'';

''(B) Under the heading ''Summary of Reaffirmation Agreement'', the statement: ''This Summary is made pursuant to the requirements of the Bankruptcy Code'';

''(C) The ''Amount Reaffirmed'', using that term, which shall be (I) the total amount which the debtor agrees to reaffirm and (II) the total of any other fees or cost accrued as of the date of the disclosure statement.''

''(D) In conjunction with the disclosure of the ''Amount Reaffirmed'', the statements

(I) ''The amount of debt you have agreed to reaffirm''; and

(II) ''Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement'';

''(E) The ''Annual Percentage Rate'', using that term, which shall be disclosed as —

''(I) If, at the time the petition is filed, the debt is open end credit as defined pursuant to the Truth in Lending Act, title 15 United States Code section 1601 et. seq., then

''(aa) the annual percentage rate determined pursuant to title 15 United States Code section 1637(b)(5) and (6), as applicable, as disclosed to the debtor in the most recent periodic statement print to the agreement or, if no such periodic statement has been provided the debtor during the prior six months, the annual percentage rate as it

would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(bb) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed; or

''(cc) if the entity making the disclosure elects, to disclose the annual percentage rate under (aa) and the simple interest rate under (bb).

''(II) if, at the time the petition is filed, the debt is closed end credit as defined pursuant to the Truth in Lending Act, title 15 United States Code section 1601 et. seq., then

''(aa) the annual percentage rate pursuant to title 15 United States Code section 1638(a)(4) as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor; or to the extent this annual percentage rate is not readily available or not applicable, then

''(bb) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed; or

''(cc) if the entity making the disclosure elects, to disclose the annual percentage rate under (aa) and the simple interest rate under (bb).''

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given pursuant to the Truth in Lending Act, title 15, United States Code, section 1601 et. seq, by stating ''The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.''

''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.''

''(H) At the election of the creditor, a statement of the repayment schedule using one or a combination of the following—

''(I) by making the statement: ''Your first payment in the amount $_____ is due on_____ but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.'', and stating the amount of he first payment and the due date of that payment in the places provided;

''(II) by making the statement: ''Your payment schedule will be:'', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

''(III) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: ''Note: When this disclosure talks about what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'';

''(J) The following additional statements:

''Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

''1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

''2. Complete and sign part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

''3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

''4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

''5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in part D.''

''7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interest, except that no curt approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

''Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

''What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if your are reaffirming an open end credit agreement, the creditor may be permitted by that agreement and/or applicable law to change the terms of the agreement in the future under certain conditions.

''Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

''What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your state's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.''

''(4) To form of reaffirmation agreement required under this paragraph shall consist of the following—

''Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

''Brief description of credit agreement:

Description of any changes to the credit agreement made as part of this reaffirmation agreement:

Signature: Date:

Borrower:

Co-borrower, if also reaffirming:

Accepted by creditor:

Date of creditor acceptance:'';

''(5)(i) The declaration shall consist of the following:

''Part C: Certification by Debtor's Attorney (If Any)

I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

Signature of Debtor's Attorney: Date:'';

(ii) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.''

''(6) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following—

''Part D: Debtor's Statement in Support of Reaffirmation Agreement.

1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here:_____

2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'';

''(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall

be signed and dated by the moving party, shall consist of the following—

''Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.) I (we), the debtor, affirm the following to be true and correct:

''I am not represented by an attorney in connection with this reaffirmation agreement.

''I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

''Therefore, I ask the court for an order approving this reaffirmation agreement.''

''(8) The court order, which may be used to approve a reaffirmation, shall consist of the following—

''Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'';

''(j) Notwithstanding any other provision of this title—

''(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

''(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c)(2) and (i) shall be satisfied if disclosures required under those subsections are given in good faith.

''(k) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (i)(6) of this section is less than the scheduled payments on the reaffirmed debt. This presumption must be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. However, no agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing must be concluded before the entry to the debtor's discharge.''

SEC. 2. JUDICIAL EDUCATION.

Add at the appropriate place the following:

''( ) JUDICIAL EDUCATION.—The Director of the Administrative Office of the United States Courts, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing the act, including the requirements relating to the 707(b) means test and reaffirmations.''

The PRESIDING OFFICER. The Senator from Alabama still has the floor.

REAFFIRMATIONS

Mr. SESSIONS. Mr. President, I would like to address an issue that Senator REED and I have been working on for many months. We have sought to reform the process of reaffirmations, to fully inform debtors of the details and consequences of reaffirming debts, to prevent abuse of this process by dishonest debtors and creditors, and protect honest individuals who wish to enter a reaffirmation agreement. Senator REED and I have worked for months to reach this point, and we have tried to craft a balanced amendment that protects the interests of everyone involved. That amendment passed the Senate last year. At this point, Senator REED and I have agreed on a few technical changes, and identified one substantive issue that remains outstanding. The substantive issue concerns the time limit for reaffirmation agreements to be approved by the court. Current law provides 90 days, and Senator REED would prefer 50 days. Given the support for the underlying amendment, Senator REED and I were most concerned with making the technical changes to ensure that the agreement that was reached accurately represented the common intent and to reserve the timing issue for conference.

Mr. REED. Mr. President, my friend from Alabama is correct. I believe that we have an honest, fair reform to the reaffirmation process and procedure. I know there has been a great deal of work dedicated to this end, and I am pleased we have arrived at this common ground. I have some concerns about the time limits for approval of these reaffirmation agreements. I had hoped this timing issue would be resolved, but I share Senator SESSIONS' desire to see this amendment passed with the technical corrections. I would ask my friend if he shares my interest in addressing this timing issue in conference?

Mr. SESSIONS. I believe your concern is reasonable, and I will work with you to see that this issue is addressed in conference. I am confident that we can reach a consensus on the timing issue, and that all sides will be able to accept the change.

Mr. REED. I thank the Senator.

Mr. SESSIONS. Mr. President, I will briefly say in response to the comments made by the distinguished senior Senator from Massachusetts that this is a fair and balanced bill. It does a number of good things to help those who have financial difficulties. It closes loopholes and ends unfairness in provisions that are being abused and making a mockery out of legitimate bankruptcy law.

For example, children or those who are eligible to receive child support and alimony are raised to the highest possible level, even above attorney fees and trustee fees in bankruptcy. They are the highest possible level. If an individual owes a number of debts and one of those is for child support, the child support is to be paid first.

There is nothing in this bill that is harsh. Any American making below the median income level will fundamentally find their bankruptcy filing procedure under the needs-based rule has not changed. It is only for those who make above the median income that a question will be raised as to whether or not they can pay back some of their debts.

There are literally thousands of individuals in America today who owe limited debts, who may have incomes of $80,000, $90,000, or $200,000, and choose to file for bankruptcy. Under the current law, they can wipe out all their debts, even those owed to people much less wealthy than they, and not pay any debts.

Under this provision of law, if you have an income above the median income level, the bankruptcy court may conclude you can pay some of your debts, and if you can, you are given 5 years to pay some of those debts to somebody from whom you have received a benefit or else you would not have a debt.

I thank Senator GRASSLEY for his work on this bill. I am troubled that anyone would say it is unfair and does not help make this system better. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. We have now yielded back all time on the SCHUMER amendment. It is my understanding this side has 10 minutes reserved under the Harkin amendment.

The PRESIDING OFFICER. The Senator from Iowa is correct.

All time has expired on the SCHUMER amendment.

AMENDMENT NO. 2770

Mr. GRASSLEY. I yield myself such time as I might consume on the Harkin amendment. I will not use all of the time because I want to encourage Senator FEINGOLD or Senator LEVIN to go ahead with their amendments.

Mr. REID. I say to my friend from Iowa, as soon as the Senator completes his statement the Senator from Michigan is ready to proceed.

Mr. GRASSLEY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I wish to respond to what the Senator from Massachusetts spoke about so passionately. I probably do not speak with the same passion he does, but I do want to say that he has it completely wrong. You cannot ignore the fact that since 1980 bankruptcies have increased from around 330,000 in that year to just under 1.4 million in 1999. That is a fact that cannot be ignored.

Consequently, it seems to me to be completely wrong for some other Senator to say we do not have a bankruptcy problem in the United States. Congress ought to deal with it, and changing the law will help. I do not pretend changing the law is going to entirely respond to that problem, but the extent to which it does, we should do it because this increase in bankruptcies is a huge increase. The small dip in the filings that Senator KENNEDY has referred to will not erase this very basic, fundamental problem we have in our economy with the bankruptcy laws. We have a real bankruptcy crisis on our hands. We cannot ignore that.

Perhaps the Senator from Massachusetts does not remember what his own President said in the State of the Union Address. The President of the United States said, just a few days ago, these are prosperous times. People are not in bankruptcy then because of hard times. If this is a problem when we have very prosperous times, what sort of a bankruptcy problem are we going to have when we have a recession or a depression?

One other point that the Senator from Massachusetts spent a great deal of time on is how he sees the problems of minimum wage in this bill. There is a minimum wage increase in this bill. It isn't there because we Republicans sought to join minimum wage with the bankruptcy bill. We were going to debate minimum wage at another time. We were going to increase minimum wage at another time, but it was the Democratic Party that made a decision to put minimum wage on the bankruptcy bill.

I do not even like nongermane things being included on other pieces of legislation, but it is a pattern too often adopted and too readily accepted in the Senate. So it is done. But on this side of the aisle, I argued that we should not mix minimum wage with bankruptcy. I do not want the weight of that issue, as important as increasing the minimum wage is, with the issue of reforming the bankruptcy code. But on the other side of the aisle they chose to do it. So what do we hear?

Now we are hearing complaints about the minimum wage bill on the bankruptcy bill. We are hearing threats about instructing conferees to do something about it. If it is a problem, it is a problem because the other side of the aisle made it a problem by including it. I remind them that they ought to be very careful what they wish for because sometimes they get it.

The Senator from Massachusetts has asked who will win and who will lose. Under this bill, the honest American people, who have to pay the higher prices because other people go into bankruptcy and do not pay their bills—because we have deadbeats out there—are the ones who will win by this legislation.

We still preserve the historic principle of our bankruptcy laws that some people who are in debt, through no fault of their own, are entitled to a fresh start. But when it comes to this basic principle of economics that there is no free lunch, there is no free lunch in bankruptcy, either. Somebody pays.

In this particular instance, the honest American consumer is paying $400, for a family of four, to cover debts of somewhere between $30 billion and $50 billion a year that go unpaid because of people who ought to be paying their bills. Worse yet, we have a situation where some people who do have the ability to pay their bills are not paying their bills, either. We are sending a clear signal that those who have the ability to pay are not going to get off scot-free.

I relinquish the remainder of our time. Hopefully, we can proceed, then, to the next amendment.

The PRESIDING OFFICER. Time has expired on the Harkin amendment.

AMENDMENT NO. 2770, WITHDRAWN

Mr. REID. Mr. President, it is my understanding that automatically, based on the unanimous consent request previously agreed to, the Harkin amendment is withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending business is the Schumer amendment No. 2763.

AMENDMENT NO. 2748, AS MODIFIED

(Purpose: To provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed, and for other purposes)

Mr. FEINGOLD. Mr. President, I ask unanimous consent that amendment be temporarily laid aside so I can call up amendment No. 2748, as modified by amendment No. 2779.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2748, as modified.

Mr. FEINGOLD. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 108, line 15, strike ''; and'' and insert a semicolon.

Beginning on page 108, strike line 18 and all that follows through page 109, line 7, and insert the following:

''(23) under subsection (a)(3) of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property—

''(A) on which the debtor resides as a tenant under a rental agreement; and

''(B) with respect to which—

''(i) the debtor fails to make a rent payment that initially becomes due under the rental agreement or applicable State law after the date of filing of the petition or within the 10 days prior to the filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification to the debtor; or

''(ii) the debtor's lease has expired according to its terms and (a) or a member of the lessor's immediate family intends to personally occupy that property or (b) the lessor has entered into an enforceable lease agreement with another tenant prior to the filing of the petition, if the lessor files with the court a certification of such facts and serves a copy of the certification to the debtor:

''(24) under subsection (a)(3) of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property, if during the 1-year period preceding the filing of the petition the debtor—

''(A) commenced another case under this title; and

''(B) failed to make a rent payment that initially became due under an applicable rental agreement or State law after the date of filing of the petition for that other case; or

''(25) under subsection (a)(3), of an eviction action based on endangerment of property or the use of an illegal drug, if the lessor files with the court a certification that the debtor has endangered property or used an illegal drug and serves a copy of the certification to the debtor''; and

(4) by adding at the end of the flush material at the end of the subsection the following: ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in that paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under that paragraph, unless the debtor takes such action as may be necessary to address the subject of the certification or the court orders that the exception to the automatic stay shall not become effective or provides for a later date of applicability.''.

Mr. FEINGOLD. Mr. President, how much time am I allotted on this amendment?

The PRESIDING OFFICER. The Senator from Wisconsin has 13 minutes on this amendment.

Mr. FEINGOLD. Mr. President, this amendment is what we have referred to in this debate on the bankruptcy bill as the ''landlord-tenant amendment.'' We had extensive debate on this amendment in November before we recessed for the year. We did make some progress in identifying the areas of dispute and, I think, in narrowing our differences as well.

To remind my colleagues, this amendment is designed to reduce the harsh consequences of section 311 of the bill on tenants, while at the same time protecting legitimate financial interests of landlords.

To review, current law provides for an automatic stay of eviction proceedings upon the filing of a bankruptcy case. Landlords can apply for relief from that stay so the eviction can proceed, but it is a process that often takes a few months.

What section 311 of the bill does is eliminate the stay in all landlord-tenant cases so an eviction can proceed immediately, completely, regardless of the circumstances.

What my amendment would do is allow tenants to remain in their apartments as they try to sort out the difficult consequences of bankruptcy, if—and only if—they are willing to pay the rent that comes due after they file for bankruptcy or that comes due within the 10 days before bankruptcy. If the tenant fails to pay rent, the stay can be lifted without further proceedings 15 days after the landlord provides notice to the court that the rent has not been paid. If the reason for the eviction is

drug use or property damage, the stay can also be lifted after 15 days. Finally, if the lease has actually expired by its terms—in other words, if there is no more time on the lease—and if the landlord or a member of his or her family plans to move in to the property, then again, after 15 days notice, the eviction can proceed.

There is no 15-day notice period, with a chance for the tenant to go into court and challenge the allegations of the landlord, if the tenant has filed for bankruptcy previously. In other words in cases of repeat filings, the stay never takes effect, just as under section 311 in this bill. That is the main abuse that has been alleged in Los Angeles County, where unscrupulous bankruptcy petition preparers advertise filing bankruptcy as a way to live ''rent free.'' So under my amendment, a debtor can never live ''rent free.'' The debtor has to pay rent after filing for bankruptcy. If a debtor misses a rent payment, the stay will be lifted 15 days later. And the automatic stay does not take effect at all if the tenant is a repeat filer.

So my amendment gets at the abuse, and it protects the rights and economic interests of the landlord. What it eliminates is the punitive aspect of Section 311, and the possibility that tenants who are willing and able to pay rent once they get a little breathing room from their other creditors will instead be put out on the street. I am frankly disappointed that my colleague from Alabama, with whom I have had a good debate on this issue, and the property owners organizations are insisting on the harsh aspects of section 311 when my amendment would get at the problems they have identified just as well.

It is also important to note that even in cases where a tenant pays the rent that is due after filing for bankruptcy, my amendment leaves intact the current law that allows landlords to get relief from the automatic stay. Let me be very clear about that. My amendment does not eliminate the ability of landlords to apply for relief from the stay under current law. The law now gives debtors some breathing room in legal proceedings, including eviction proceedings. But landlords can apply for relief from the stay. It is not an abuse of the law to take advantage of the automatic stay to get your affairs in order. Many tenants use that time to work out a payment schedule for their back rent so they can avoid eviction altogether.

Most landlords don't want to throw people out on the street—they just want to be paid. My amendment requires that they be paid once bankruptcy is filed, or the eviction can proceed immediately. But even if the rent is paid while the bankruptcy case is pending, a landlord can still seek relief from stay under the normal procedures and press forward with the eviction.

I have a letter from the National Association of Realtors, a powerful lobbying association, that is unalterably opposed to my amendment. This letter is dated January 24, 2000, several days ago. It urges opposition to my amendment, which it says will ''seriously weaken'' the bill. But listen to what it says about the bill. The letter says that current law allows for ''serious fraud and abuse.'' But my amendment deals with the cases of fraud and abuse by disallowing the automatic stay in the case of repeat filings. And the Realtor's letter says that current law allows tenant to ''live rent free at the expense of the property owner.'' But my amendment does not allow tenants to live rent free. They have to pay rent once the bankruptcy is filed. And it says that prospective tenants often ''have to wait 6 months or longer, as they do now, to get into rental property units occupied by residents overstaying their lease.'' Well that is simply not true under my amendment. This amendment allows for expedited relief from stay in any case where the lease has expired according to its terms and the landlord has entered into a valid rental agreement with another tenant prior to the filing of the bankruptcy petition.

Every single one of the arguments made by the National Association of Realtors against the amendment is refuted by the amendment itself, every one. Yet this group persists in urging the Senate to reject the amendment. It says, speaking about the provisions of the bill that the amendment will modify: ''we believe these common sense provisions will curb abusive use of the Bankruptcy Code.'' If the Realtors were honest, they would admit that my amendment will do exactly the same thing. It will curb abusive use of the Bankruptcy Code. But it will also continue to allow the code to provide protection to people who are not abusing the system, but simply using it to get back on their feet, and keep a roof over their heads. Those people would be treated too harshly by the current bill, and it is unfortunate that the Realtors, in their zeal to get as many advantages for landlords as they can, refuse to see that.

I have modified this amendment in the spirit of compromise to address all of the concerns that the Senator from Alabama raised in debate last year. This amendment addresses the abuse, it is fair to landlords and makes sure they are not economically harmed when a tenant files for bankruptcy, and it is fair to debtors who file for bankruptcy in good faith and simply need a little breathing space to get their lives in order.

I urge my colleagues to look carefully at this amendment, and I hope they will support it.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, the Senator from Alabama wants to speak against the amendment of the Senator from Wisconsin and also against the amendment of the Senator from Michigan very shortly. The manager of the bill has asked permission that we go immediately to the Levin amendment and reserve the remainder of the time of the Senator from Wisconsin, and that the Senator from Alabama, Mr. SESSIONS, be allowed to speak at the same time against both amendments. Does the Senator from Wisconsin have objection to that?

Mr. FEINGOLD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin has 6 minutes remaining on his amendment.

The Senator from Michigan.

AMENDMENT NO. 2658

(Purpose: To provide for the nondischargeability of debts arising from firearm-related debts, and for other purposes)

Mr. LEVIN. Mr. President, what is the pending matter?

The PRESIDING OFFICER. The clerk will report the Levin amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. DURBIN, Mr. WYDEN, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER, proposes an amendment numbered 2658.

The amendment is as follows:

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

SEC. ___. CHAPTER 11 NONDISCHARGEABILITY OF DEBTS ARISING FROM FIREARM-RELATED DEBTS.

(a) IN GENERAL.—Section 1141(d) of title 11, United States Code, as amended by section 708 of this Act, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt that is—

''(A) related to the use or transfer of a firearm (as defined in section 921(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

''(B) based in whole or in part on fraud, recklessness, misrepresentation, nuisance, negligence, or product liability.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 901(d) of this Act, is amended—

(1) in paragraph (27), by striking ''or'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (28) the following:

''(29) under subsection (a) of this section, of—

''(A) the commencement or continuation, and conclusion to the entry of final judgment or order, of a judicial, administrative, or other action or proceeding for debts that are nondischargeable under section 1141(d)(6); or

''(B) the perfection or enforcement of a judgment or order referred to in subparagraph (A) against property of the estate or property of the debtor.''.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 20 minutes.

Mr. LEVIN. I thank the Chair.

This amendment, which is cosponsored by a number of our colleagues, provides that gun manufacturers and

distributors cannot evade responsibility for damages that are caused by their reckless or negligent conduct or their fraudulent conduct by seeking reorganization in bankruptcy court. It is that straightforward. We already have about 18 provisions in the bankruptcy law based on public policy which provide that certain kinds of debts are not dischargeable.

For instance, we have in the law a provision that says if you drive while drunk and you injure somebody, you cannot discharge that obligation by going bankrupt. Senator Danforth made an eloquent statement on this floor arguing for justification for that particular exception, that nondischargeability, when he said:

> Today there exists an unconscionable loophole in the bankruptcy statute which makes it possible for drunk drivers who have injured, killed or caused property damage to others to escape civil liability for their actions by having their judgment debt discharged in Federal bankruptcy court. This loophole affords opportunities for scandalous abuse of the judicial process.

Following Senator Danforth's and others' pleas that we make liability resulting from drunken driving nondischargeable in bankruptcy, this Congress added another nondischargeable obligation in our bankruptcy law. We have about 18 of those provisions. We have a provision that says if you have an obligation to the Government for a student loan, you are not going to be able to get rid of that by going bankrupt. We have a provision in the bankruptcy law which says if you have an obligation to a co-op or to a condo for a fee you owe to them, under certain circumstances that is not going to be dischargeable in bankruptcy.

And what we are saying now in this amendment is that where a gun manufacturer or a distributor, through his own reckless, negligent, or fraudulent conduct causes damages to individuals or our communities, they should not be able to reorganize in bankruptcy court and get rid of that debt.

This is the public policy purpose beyond this particular provision. It has the support of many organizations such as Handgun Control, which is Sarah Brady's group, has written in support of this amendment, saying:

> Gun manufacturers, distributors, and dealers should not be able to evade these legitimate claims for damages.

In 1996, Lorcin Engineering Company, one of the chief manufacturers of Saturday night specials, or junk guns, filed for chapter 11 bankruptcy. Other gun manufacturers such as Davis Industries and Sundance Industries have followed Lorcin's lead and have filed for bankruptcy to avoid liability. We must not allow other companies to take advantage of this bankruptcy system.

We have an unusual provision in the law that exempts the gun industry from safety and health regulation. It is the only industry that is explicitly exempt from health and safety regulations and from the jurisdiction of the Consumer Product Safety Commission. No agency has safety oversight over manufacturers who have produced unsafe firearms, and so litigation serves as the only mechanism that can hold the industry responsible.

What this amendment says is that where there is damage caused by fraud or reckless or negligent conduct of a manufacturer or distributor, that manufacturer or distributor should not be able to reorganize itself out of accountability, away from responsibility by going to bankruptcy court. The public policy purpose behind this amendment is a powerful one, indeed.

In addition to Sarah Brady's organization, which I have mentioned, the National League of Cities supports this amendment. They have written a letter dated November 16:

> Like debts incurred by drunk driving, Congress must send a clear and convincing message that it will not permit debtors to escape debts incurred by improper conduct. It is crucial that the Federal Government do all that it can to help local law enforcement effectively address gun violence with commonsense legislation that curtails access to firearms, including altering the bankruptcy code.

Too many of these companies have already said they are going to try to reorganize to escape liability. It is a tactic they are using. That is not what the bankruptcy law is all about. The bankruptcy law is not intended to provide that kind of a haven for companies that have engaged in reckless conduct or negligent conduct, to evade responsibility for their obligations.

Now, the reasons the National League of Cities has taken this position are many, but one of them is that 30 cities and counties have filed lawsuits against gun manufacturers or distributors alleging reckless, negligent, or fraudulent conduct on the part of those manufacturers or distributors. New Orleans, LA; Chicago, IL; Miami, FL; Atlanta, GA; Cleveland and Cincinnati, OH; Detroit, MI; San Francisco, CA; St. Louis, MO; and other cities and communities have filed lawsuits alleging reckless conduct, negligent conduct, or fraudulent conduct on the part of a gun manufacturer or distributor. They very strongly support this amendment, as does the U.S. Conference of Mayors and the Violence Policy Center.

The Violence Policy Center issued a statement saying that this amendment is necessary to ensure that firearm manufacturers, which are exempt from Federal health and safety regulation—and I emphasize the only group that is exempt from Federal health and safety regulation explicitly is the firearms manufacturers. They have gotten that exemption. Yet when it comes to trying to close a loophole in the bankruptcy law, which they are using tactically to evade responsibility, they claim they are being singled out. Indeed, they have singled themselves out in gaining exemption from Federal health and safety regulation, and the only way in which they can be held accountable is through the civil justice system. That is why the Violence Policy Center has written a letter of support, indicating that lack of health and safety regulation means the civil justice system is the only mechanism available to regulate the conduct of gun manufacturers.

Mr. President, this amendment is in response to a tactic that has now been declared by a number of gun manufacturers, that when faced with allegations or judgments based on damages caused by reckless or negligent misconduct, they will seek protection through reorganization in the bankruptcy courts. We are trying to reduce the level of gun violence in this country, and one way to do it, a way to support the cities and the mayors and the individuals who have been victimized by reckless or negligent manufacture or distribution, is to close a loophole in the bankruptcy system which a number of gun manufacturers have explicitly said they will use tactically to try to evade responsibility for their misconduct.

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

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has 11 minutes remaining.

Mr. GRASSLEY. Mr. President, I yield such time as he consumes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 2748, AS MODIFIED

Mr. SESSIONS. Mr. President, Senator FEINGOLD has again presented an amendment involving landlords and eviction cases. It is one of the biggest problems we have in the bankruptcy code. He has made some progress from his original amendment, but it still basically makes a Federal case out of eviction proceedings. Under Senator FEINGOLD's amendment, when a lease has expired, tenants can go to bankruptcy court to delay and file motions and have hearings that can draw out the case even longer than the time that the Senator has suggested would normally occur. That ought to be done in State systems where eviction cases are traditionally litigated—not in Federal Bankruptcy court.

Every State has a procedure and remedies and rights for tenants being evicted. That is where those cases ought to be handled, not in bankruptcy court. We know that 3,886 people filed bankruptcy in Los Angeles County in 1996 simply for the purpose of defeating eviction. We have seen advertisements in newspapers saying, ''hire us as your bankruptcy lawyer and we can delay your eviction for 7 months.'' This is the kind of thing that is not healthy, the kind of thing that has disrupted and distorted bankruptcy law. I believe bankruptcy law upsets legitimate landlords, many of whom are retirees and people who have only a few apartments or a duplex that they manage, when they can't get a tenant out.

So this amendment that he proposes, in effect, continues the process of allowing the tenant to take his eviction case to bankruptcy court. This is what has been happening and what will continue to happen if the Senator's amendment is adopted. A tenant contests an eviction in State court, and as he moves toward the conclusion of that case, he then has his bankruptcy lawyer file bankruptcy. An automatic stay would occur even with this notice Senator FEINGOLD proposes, at least for 2 weeks. Then they would be eligible for a hearing in bankruptcy court on the certification that had been submitted, and then that would delay things.

After the landlord eventually wins, for example, in a case in which the lease has expired, the case still then has to go back to State court and has to be revived because it is at the bottom of the judge's docket. The landlord has to go back to the State court lawyer to proceed with it. I think that is a completely unworkable proposal. I do understand the Senator's concern. We ought to do all we can to help those who are homeless. We have many provisions for dealing with homeless people, but mandating private landlords to provide housing for people who do not have a valid lease is not the right approach, in my view.

Mr. President, with regard to the gun issue, I think we need to think clearly about what we are doing. We are talking about removing bankruptcy protection from two kinds of judgments: Judgments incurred by people who ''potentially'' violate the law near an abortion clinic and judgments incurred by firearms manufacturers or dealers when some third party breaks the law by using a firearm to injure another person.

Each of us has a special responsibility, I believe, to this Senate and our constitutional responsibilities to create a coherent, fair justice system for allowing citizens' debts to be discharged. That is what bankruptcy is. Every time someone declares bankruptcy, someone whom he or she justly owes is not paid—a store owner, a doctor, a bank, or whoever.

So most of us are here to achieve honest bankruptcy reform. These amendments, however, involving the abortion clinic exception and the gun manufacturers exception have all the earmarks of partisan injection of politics into the bankruptcy code and an attack on people who are unpopular, particularly groups or institutions that are unpopular with the political left. These political attacks come at the expense of the integrity and consistency of our bankruptcy system. We should not allow these kinds of attacks to happen. It is our duty to create a legal system for all Americans and not just to pursue special interest politics.

One Senator who proposed this amendment said, well, if it is political, it is popular. I do not believe it would be popular if we had a group of citizens and we explained exactly with regard to the abortion clinic or with regard to the gun manufacturers how they were being targeted specifically in ways that similar businesses and institutions were not being targeted and were not being given an exemption from bankruptcy.

I suggest that this is not a targeting of violence. These amendments are basically targeting political enemies. The amendments create an exception to the generally applicable bankruptcy protections for two specific classes: Pro-life activists who are overzealous and may violate Federal law, and firearms manufacturers that in general adhere to the law with great attention and, as a matter of fact, do what they are supposed to do and sell firearms according to Federal regulations.

Remember that by the established rule of law, any debt that arises from ''wilful or malicious'' conduct by any institution today is not dischargeable in bankruptcy. In other words, if you commit an action that is malicious or willful and you go into bankruptcy court, you can't wipe out that debt; you still have to pay it.

If we remove the general bankruptcy protection for court judgment against these targeted groups, why aren't we eliminating these protections for other types of debtors whose acts other people may not like in this country? If the goal were to stop violence and protect children from exposure to bad products, you might expect my colleagues who support this amendment to offer amendments that remove generally applicable bankruptcy protections from other entities.

For example, I don't see them proposing to remove protections for union leaders who may acquiesce in strike violence around a plant, or environmental terrorists or their organization who may damage the equipment of logging companies. They are not proposing we provide special protections for Hollywood production companies that inundate our children with smut and violence.

Take, for example, the Hollywood entertainment industry. Through pornographic, violent movies and other activities, this industry pumps violent images into the minds of our people, especially children.

Michael Carneal, the high school student in Paducah, KY, who killed several of his classmates, stated that the violent Hollywood movie, ''The Basketball Diaries,'' which featured a disaffected high school student who shoots a gun into a classroom of students, influenced him to commit his horrible crime.

Eric Harris and Dylan Klebold—the killers in the Littleton, CO, Columbine High School—were avid players of the video game ''Doom'' in which they hunted down and shot their victims. As the New York Times stated, ''the search for the cause in the Littleton shootings continues, and much of it has come to focus on violent video games.''

Will there be lawsuits against those companies?

Who can forget Ted Bundy, a serial killer who preyed on young co-eds, who was convicted and sentenced to death in the electric chair? He confessed that he became addicted to pornography and that pornography played a major role in developing his homicidal fantasies that led to his violent and horrific crimes.

As Senator HATCH's recent Report entitled, ''Children, Violence, and the Media'' noted: ''The debate is over,'' begins a position paper on media violence by the American Psychiatric Association, ''[f]or the last three decades, the one predominant finding in research on the mass media is that exposure to media portrayals of violence increases aggressive behavior in children.'' In the words of Jeffrey McIntyre, legislative and federal affairs officer for the American Psychological Association, ''To argue against it is like arguing against gravity.''

But Hollywood and other activist groups are not targets of these bankruptcy penalties. Why? Because they are friends of some of the people proposing these amendments.

After criticizing Hollywood in public for violent movies and video games that could be responsible for tragedies such as the one at Columbine High School, President Clinton that same day went to a fundraiser in which Hollywood contributors gave $2 million to the Democratic Party.

Supporters of this amendment say they want to stop those who peddle violence to children; that is, punish gun manufacturers, they say. But what about these others who could be sued and have judgments against them? I could say let's provide an exception to them. But, really, that is not the right approach for us to take. We ought not to be carving out exceptions and protections and targeting groups we don't like. We need to create a basic bankruptcy law that treats all lawful businesses the same.

It certainly strikes me as odd that we would want to target people who feel deeply about an issue such as abortion and who, through perhaps excess zeal, may potentially violate the law when protesting against abortion. But what about other groups? Union leaders are also picketing. Civil rights groups, ACLU groups—why aren't they being singled out by this amendment?

These amendments do not represent a high-minded, moral stance against the marketing of violence or against violence itself. Instead, the real reason behind these proposals, it appears to me, is to attack political enemies of certain people.

I could consider offering amendments to include groups such as pornographers, but I don't think that is the right approach. I believe we ought to stay with the historic general principles of law that say those who are willful and those who are malicious cannot discharge their debt.

I would like to say a couple of things about the gun manufacturer lawsuits.

Mr. REID. Mr. President, will the Senator withhold?

Mr. SESSIONS. I will.

Mr. REID. We had a number of Senators calling to find out when the votes are going to occur. I think we are in a position now where we could, with the courtesy of the Senator from Alabama, ask unanimous consent to set a time for the votes.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the amendments be voted in the order in which they were debated today, with 4 minutes prior to each vote for explanation, divided equally.

I ask unanimous consent the remaining parameters of the consent agreement then be in place.

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

Mr. HATCH. Therefore, a series of votes will shortly occur in the following order, with passage the last in this series: Schumer amendment No. 2763, Feingold amendment No. 2748, Levin amendment No. 2658, and the Schumer amendment No. 2762.

I might mention that on the last amendment there is a possibility we may be able to resolve that amendment. If we do, then there will only be three votes and final passage. If we cannot resolve it, we will have four votes and final passage.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Was that a unanimous consent request?

Mr. HATCH. Yes. We already had that.

Mr. LEAHY. I beg the indulgence of the Senator from Alabama. I am hoping we can resolve the last amendment of the Senator from New York. I think it is one that makes sense and one that has broad agreement on both sides.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. SESSIONS. I thank the Senator from Arizona.

The PRESIDING OFFICER. Alabama.

Mr. SESSIONS. Pardon me, that is not the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Alabama is not the Senator from Georgia, and the acting Presiding Officer apologizes to the distinguished Senator from Alabama.

Mr. SESSIONS. I thank the Presiding Officer from——

The PRESIDING OFFICER. Kansas.

Mr. SESSIONS. I trust we will remember next time.

The argument was made previously that we target and provide an exception in the bill for drunk drivers and drunk boaters. Yes, the current law does do that. But drunk drivers and drunk boaters are the people who conduct themselves in a reckless and endangering way. They ought to be punished. It is legitimate for us to give them a different treatment. But the proposed amendment dealing with gun manufacturers does not target the illegal or irresponsible gun user. It targets a responsible, federally licensed, law-abiding gun manufacturer. That is a big difference.

I have not heard any of my colleagues across the aisle argue that automobile and boat manufacturers should have their product liability debt classified as ''nondischargeable.'' And they should not be. Because those manufacturers, as firearm manufacturers, are not at fault. It is the irresponsible driver or the irresponsible shooter.

Briefly, I will say this. With regard to the suits against gun manufacturers, I think it is very instructive to note the Department of Justice, the Presidentially appointed Attorney General, has not agreed to file these lawsuits. The reason is there is no legal basis for them. Two of them have already been dismissed. They have conjured up a political appointee in HUD, the Department of Housing and Urban Development, to come up with this idea that if you sell a gun precisely according to Federal law, with all the regulations and do everything you can possible, and then the buyer goes out and uses it illegally, the seller or manufacturer is liable. That is not going to hold up in a court of law. If they want to make that law, let's pass a law, let's put it on the floor and vote for it. We have to stop utilizing the litigation process to set public policy in this country. And that is what this is. It is a dangerous trend.

Indeed, a number of institutions which you would not expect, and individuals, have commented on this. The Washington Post, which is absolutely committed to gun control in America, as much as any institution I know of, wrote this recently, on the threats of HUD to file a lawsuit. The Post said:

> It seems wrong for an agency of the Federal Government to organize other plaintiffs to put pressure on an industry—even a distasteful industry—to achieve policy results the administration has not been able to achieve through normal legislation and regulation.

They went on:

> It is an abuse of a valuable system, [the legal system] one that could make it less valuable [the legal system could be less valuable] as people come to view the legal system as nothing more than an arm of policymakers.

I remember a number of years ago, Hodding Carter, who used to serve President Jimmy Carter, said on a national TV program, we liberals have gotten to the point where we want to use the legal system to carry out our agenda we can no longer win at the ballot box.

Robert Reich, President Clinton's former Secretary of Labor, has characterized these tactics as:

> . . . blatant end-runs around the democratic process . . . and nothing short of a faux legislation, which sacrifices democracy to the discretion of administrative officials operating under utter secrecy. . . .

Mr. Reich goes on to say:

> The way to fix everything isn't to turn our backs on the democratic process and pursue litigation as the administration [his former administration] is doing.

That is precisely what we are doing. A lawsuit by lawyers who file these actions to set public policy is dangerous because they were not elected to set that policy. They are not accountable to the people, as we are. If we want to pass a law to burden gun manufacturers further, so be it. We are accountable to the American people and we are responsible for the law. But who are these people who, through lawsuits and secret negotiations, are going do that? That is how we got into this. I don't think these lawsuits are going to be successful, but I certainly do not believe we ought to provide a particular exception, that if somehow they are successful and judgments are rendered so the companies have to go into bankruptcy, somehow they cannot even go into bankruptcy and discharge their debts. That is what we are talking about.

With regard to both of these amendments, they are targeted. They have the earmarks of having a political agenda behind them. They interfere with the objectivity and fairness of the bankruptcy code. We ought not pass them. We ought to reject them both, and we ought to reject the Feingold amendment on rent because we do not need to continue to provide a Federal court trial of matters involving eviction.

I yield the floor.

The PRESIDING OFFICER. Does the distinguished Senator from the great and sovereign State of Alabama, where he served as attorney general, the great State of Alabama, wish to be recognized any further?

Mr. SESSIONS. The Senator from Alabama yields the floor and thanks the Chair.

Mr. FEINGOLD. Mr. President, I will oppose the Levin-Durbin amendment, which would make certain judgments against gun manufacturers nondischargeable in Chapter 11 bankruptcy proceedings. I appreciate the sincere views of my friends from Michigan and Illinois who have proposed this amendment as a way to highlight the serious issues of gun violence in this country. I do not believe, however, that this amendment is necessary, and I think it has the potential to set a dangerous precedent in our business bankruptcy system.

First, there is a real question of whether this amendment is necessary. Chapter 11 business bankruptcy is not like Chapter 7 personal bankruptcy where debts are simply wiped out by the bankruptcy decree. In a Chapter 11 bankruptcy, a business's reorganization plan must receive the approval of the court and of the other creditors. It is far from clear that the kind of judgments that are at issue in the Levin amendment will automatically be discharged in a bankruptcy reorganization.

In addition, Chapter 11 bankruptcy often provides a useful forum for making sure that all claimants against a company are treated fairly. We have seen that happen with respect to suits against asbestos and IUD manufacturers. Without it, plaintiffs may end up in a race to the courthouse to try to claim the limited assets of a company.

Because I have some doubt that the amendment is necessary, and whether it is advisable even from the point of view of potential plaintiffs against gun manufacturers, I am reluctant to set the precedent of using the business bankruptcy system in this way. I believe this amendment is different from some of the non-dischargeability provisions already applicable to personal bankruptcies or that will be voted on here before we complete this bill. Whereas we can say to someone who is contemplating personal bankruptcy that it is our judgment that certain debts simply should not be discharged because of the circumstances or culpability that led to the bankruptcy in the first place, it is hard to see how delivering that message in this particular narrow business bankruptcy context accomplishes the same goal. I will therefore vote against this amendment.

Mr. BYRD. Mr. President, I oppose this amendment offered to the bankruptcy reform bill by Senator LEVIN that would prohibit gun manufacturers from discharging debt associated with firearm sales.

Currently, the families of victims who have been harmed by a firearm can sue the gun manufacturer for financial damages in civil court. The bankruptcy code allows for the gun manufacturer to file for bankruptcy protection and discharge the debt that the manufacturer may owe to the victim's family. This amendment would prohibit a gun manufacturer from discharging that debt.

I am voting against this amendment because, at this time, I have not received significant evidence to suggest that gun manufacturers are abusing loopholes in the bankruptcy code to avoid paying their liabilities. Additionally, this amendment is not narrowly tailored to gun manufacturers who are illegally selling firearms. It targets the industry as a whole, and would set an unfortunate precedent by legally separating this industry from other industries in the bankruptcy code.

While I understand the concerns of people who would argue that gun manufacturers are abusing the bankruptcy code, I cannot support the separate treatment of certain industries under our nation's bankruptcy laws absent more significant evidence of actual abuse.

The PRESIDING OFFICER. Who yields time? The distinguished Senator from New York.

Mr. LAUTENBERG. Mr. President, the Senator from New Jersey seeks recognition.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LAUTENBERG. I thank the Senator from Kansas for his recognition.

Mr. President, I rise in strong support of the amendment being offered by my friends and colleagues, Senators LEVIN and DURBIN. It would prevent gun manufacturers from using the bankruptcy system to evade responsibility for the damage caused by their deadly products.

It is time for this Congress to catch up with the American people. The public is demanding an end to the epidemic of gun violence that has turned parts of this country into shooting galleries. Criminals are amassing arsenals of deadly weapons and using them to gun down whole groups of people, from Hawaii to Seattle, from Texas to Kentucky, yet Congress has failed to see the lesson in these tragedies.

As a result, the American people in cities across the country are turning to the legal system, desperate for help. Thirty cities and counties are suing gun manufacturers for death and injuries caused by firearms. Individual families are suing to hold gunmakers accountable for the loss or harm brought to loved ones.

These lawsuits are already making significant headway against the formidable power of the gun industry. In the case of Hamilton v. Accutek, a jury in Brooklyn, NY, found several gun manufacturers responsible for the damage caused by that product.

In Georgia, a judge allowed a suit filed by Atlanta against the gun industry to move forward.

In California, a Federal judge barred gun manufacturers from using bankruptcy as a shield when their products caused death or injury.

It was not long ago that gunmakers would laugh when you suggested they take some responsibility for the devastation firearms have caused. But the tears of our citizens have finally wiped away the smile now that 30 cities and counties across the country are taking them to court.

Today, gun manufacturers are talking about making safer firearms and working to keep guns away from criminals, things they never would have considered discussing just a year ago.

They are making these changes because gun victims are holding them accountable in court. Families, friends, and neighbors of gun victims are using the legal system to seek some measure of solace. Congress ought not to get in the way. The Levin-Durbin amendment sends a clear message that the gun industry must face up to its responsibilities, that it will not find an easy escape in the bankruptcy court when families bring valid lawsuits.

And this Congress has to do more to stop gun violence. It is disgraceful that the Congress has not passed reasonable gun safety measures, including my amendment that requires criminal background checks at gun shows. It is especially troublesome when one stops to consider that the Nation's largest gun manufacturer, Sturm, Ruger and Co., has expressed concern about the sale of its guns at gun shows.

The gunmakers themselves are seeing the light, but Congress is still fumbling for the switch. Most Americans assumed the horrific shootings in Columbine would be enough. Most Americans thought the vision of two high school students systematically killing 12 classmates and a teacher and wounding 23 others would finally spur this Congress to action.

April 20 will mark one year since that terrible tragedy at Columbine, and it would be outrageous for Congress to let that day pass without having passed a single piece of gun safety legislation. The Senate did pass sensible gun safety measures as a part of the juvenile justice bill, including the amendment I offered that would prevent criminals from getting guns at gun shows, but we simply need to finalize a good, tough bill and send it to the President.

While this legislation is technically stuck in conference, I am afraid it is being held hostage by the extremists at the National Rifle Association, and we should not allow that to continue. I am going to continue to speak on the Senate floor. I will take whatever other steps are necessary to engage Congress in that action.

When the Congress wants to act quickly, it does. We often push legislation through the process in a matter of days, but not legislation aimed at reducing gun violence. Those measures run into one delay after another, even though the vast majority of the American people are pleading for action. Failing to act by that horrible anniversary date, April 20, will be a travesty. How will we be able to answer the families who ask what we have done to stop the killing?

I urge my colleagues to join me and others in bringing this nationwide epidemic under control. The forces on the other side are powerful, but we have to help keep our families and communities safe and make the gun industry accountable. Support the Levin-Durbin amendment, and then we ought to complete the work on the gun safety measures in the juvenile justice bill.

Mr. President, I yield the floor.

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

Mr. GRASSLEY. Mr. President, how much time is left for this side on the Levin amendment?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. GRASSLEY. I yield such time as he might consume to the Senator from Idaho.

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

Mr. CRAIG. I thank the distinguished Presiding Officer from Kansas for recognizing the Senator from Idaho.

Mr. President, I said yesterday—and I meant it most sincerely—that I am very respectful of the Senator from

Iowa and the Senator from Utah who have tried to reshape bankruptcy law in this country to be fair and equitable and representative of those who find themselves in desperate straits as a result of debt and the need to reorganize and reshape that and, in some instances, to discharge it altogether. We have said historically that those who willfully, maliciously, or recklessly cause endangerment cannot do that. That has been the standard, and that ought to remain the standard.

Today, there is an attempt by the Senator from Michigan to use the bankruptcy code to be politically correct, to be more political than substantive as it relates to the law; that is, to single out an industry and that industry's legal distributors as somehow being separate, special, and unique and, therefore, not being allowed to use the bankruptcy law.

It is a great mistake for the Senate to begin to play that kind of game. That is raw politics, and we have not done that in the past. I am not sure we should ever do it for any reason other than the ones we have already said: a willful, malicious kind of action.

They say this is for gun manufacturers, those folks whom they attempt to paint as a very evil group who produce a legal and legitimate product and sell it through federally licensed dealers. Somehow they are all wrong now because the Senator from Michigan and the Senator from New Jersey say the American people sweepingly demand that we change. The American people do not sweepingly demand this change; they demand that the Justice Department enforce the laws, which we know they have not, and, as a result, some misuse of firearms has certainly gone on in our country.

The issue is not with the Kmarts, it is not with the Wal-Marts, it is not with the local hardware dealer, and it should not be with the manufacturer. But for some reason today, for political correctness in this Chamber, that is exactly what they are attempting to do. I hope my colleagues understand and recognize that we are not shielding somebody who acts willfully and maliciously but who acts knowing their action endangers others. They are not going to be exempt because they are not now and they will not be later.

The Senator from Alabama is right; judges are already dismissing these kinds of frivolous, politically motivated lawsuits, and they will keep filing them hoping someday they can find a judge on whom they can hang it and he will say OK.

If that happens, then what happens? If a company that finds itself in this situation is not allowed to use chapter 11 to reorganize, then they will use chapter 7. What does that mean? It means they will go bankrupt, they will liquidate, they will go overseas, if they need to, to manufacture their product, and jobs on Main Street in a lot of our communities can and will be lost.

Is this a jobs issue? It can be when you straitjacket the law, when you pick winners and losers, when you want to play the politically correct game against someone who, by their judgment, has fallen out of favor with the American people. I hope we do not use bankruptcy law or any other part of the Federal code of this country for that kind of political gamesmanship.

Last year, my colleagues on the other side of the aisle worked overtime trying to make guns an issue, and they failed. The reason they failed is that the American people said: Wait a moment; there are tragedies being perpetrated out there and guns being used in those tragedies, and there are 60,000 gun laws in America and the Justice Department is not enforcing them.

Somehow we just stack more laws up and the world becomes safer? No. The American people are way ahead of us by last year's polling and this year's current polling. They say: Don't do that. More laws do not a safer world make unless the laws are effectively enforced and administered against the criminal element of our society or those who would misuse their rights.

Here the Senator from Michigan is deciding who is going to be criminal and who is going to be malicious by standing in this Chamber and saying: I think I will find these people less than popular in my judgment because back home it might be politically correct with my base of support.

That is not good policy. It may be good politics. We have already found even that politics is not working very well.

I ask my colleagues to join in a motion to table. We should not mess up the bankruptcy law. It ought to be used for the purposes it is being used, and those who find themselves misusing the laws of our land or acting in a reckless, willful, malicious way are going to be treated appropriately within the law; that is, to not discharge their debt or their liability if they find themselves in this kind of an environment.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

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

AMENDMENT NO. 2762, AS MODIFIED

Mr. GRASSLEY. Mr. President, I have an opportunity to avoid one vote by sending to the desk a modified amendment. It is amendment No. 2762. So I send it to the desk and ask unanimous consent that the amendment be modified and that the modified amendment be agreed to, and the motion to reconsider be laid upon the table. If necessary, I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection on this side.

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

The amendment (No. 2762), as modified, was agreed to, as follows:

On page 14, strike lines 8 through 14 and insert the following:

''(5)(A) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the data of the order for relief, when multiplied by 12, is equal to or less than—

''(i) the national or applicable state median family income reported for a family of equal or lesser size, whichever is greater; or

''(ii) in the case of a household of 1 person, the national or applicable State median household income last reported by the Bureau of the Census for 1 earner, whichever is greater.

''(B) Notwithstanding subparagraph (A), the national or applicable State median family income for a family of more than 4 individuals shall be the national or applicable State median family income last reported by the Bureau of the Census for a family of 4 individuals, whichever is greater, plus $583 for each additional member of that family.''.

Nothing in this title shall limit the ability of a creditor to provide information to a judge, U.S. trustee, Bankruptcy administrator or panel trustee.

Mr. GRASSLEY. Does the other side of the aisle have speakers?

Mr. LEVIN. Mr. President, I think we are ready to yield back whatever time we have, if the other side is ready to yield back whatever time they have.

I withdraw that.

Mr. FEINGOLD addressed the Chair.

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

AMENDMENT NO. 2748, AS MODIFIED

Mr. FEINGOLD. I believe I have 6 minutes remaining, is that correct?

The PRESIDING OFFICER. The Senator has 6 minutes remaining on his amendment.

Mr. FEINGOLD. I ask if I can use a portion of that time at this point to respond on the landlord-tenant amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I wish to respond briefly to the short remarks the Senator from Alabama made with regard to the landlord-tenant amendment.

I want to reiterate, as the Senator from Alabama acknowledged, that he raised a whole series of concerns out here on the floor in the course of our debate on the amendment a few months ago. And he does not dispute that we addressed every single one of those concerns, as we modified the amendment. We have been very attentive to the fact there were aspects of the amendment that made the Senator, and others, uncomfortable. We made changes in the spirit of compromise in order to try to get something done.

By eliminating the automatic stay, section 311 of this bill is an enormous change in the law in favor of landlords. What the Senator does not make clear is that we are not undoing that change with this amendment. What our amendment does is streamline the process for lifting the automatic stay, rather than eliminating the stay altogether. So instead of a 6- or 8-week period, or longer, to get the stay lifted,

our amendment provides a 15-day period, and the State eviction proceedings go forward. But those proceedings cannot go forward when the tenant is paying rent.

All we are saying is that if a person is truly trying to get his or her act together, and is willing, from the time of the bankruptcy filing forward, to pay rent every month, on time, then in those cases the stay should be in place. I think that is enormously reasonable.

For the Senator to suggest this is somehow federalizing this area is the opposite of what is going on. In fact, this bill, as it will undoubtedly pass, will remove Federal court, in effect, in an awful lot of cases that currently are protected by Federal bankruptcy proceedings because of the automatic stay. And so will our amendment. If a tenant misses a rent payment, or is damaging the apartment, all the landlord has to do is file a simple one page certification to that effect with the bankruptcy court and the stay is lifted.

All we are saying is, in some cases there still needs to be that stay in place where someone is honestly trying to stay in that apartment, someone is truly trying to get their life together, and is willing to make the rent payments.

So it is simply incorrect to say this is going to gut the provision in the bill. Our amendment still is a dramatic change from current law. It is a change that is very pro-landlord. All we are saying is, let's be fair.

It is not accurate when the Senator from Alabama says there is automatically going to be a hearing at the end of the 15 days. That is not the case. Yes, it is conceivable that tenants could come and seek a hearing if they claimed that the landlord's certification was inadequate or mistaken, but there is no automatic right to a hearing. If those 15 days lapse, that is it. The State eviction proceeding goes ahead, the automatic stay is lifted.

In summary, I think this is a classic case of where, instead of there being a fundamental disagreement that we cannot bridge, we tried very hard to add a few elements of fairness to the bill. I think the Senator from Alabama would have to concede we did do that. It would be appropriate for Members to take a good look at this modified amendment and adopt it to make sure we do not have an unduly harsh change in the law. I cannot believe even the harshest landlord would want to have some of the consequences that could result if we do not adopt the reasonable modifications contained in this amendment.

Mr. President, with that, I ask, how much time is remaining?

The PRESIDING OFFICER. The distinguished Senator has 3 minutes remaining.

Mr. FEINGOLD. Mr. President, with the understanding the other side will yield their time, I will yield my time, as well. But if, instead, they wish to speak again, I will keep the 3 minutes.

Mrs. FEINSTEIN. Mr. President, after much deliberation, I am voting in favor of tabling the Feingold amendment on the use of the automatic stay in eviction proceedings.

In California, we have had very serious problems with bankruptcy mills, fly-by-night firms that have advised tenants to avoid eviction by filing for bankruptcy. These firms have even gone so far as to place ads in newspapers which encourage renters to ''stop evictions from one to six months by filing for bankruptcy,'' or promise to ''legally stop your eviction for up to 120 days at rock bottom prices.''

In 1996 alone, the Los Angles County Sheriff's Department reported 3,800 cases in which the tenant filed for bankruptcy after all state eviction proceedings were exhausted—causing an extra $ 6 million in costs.

While the Feingold amendment is well-intentioned, it does not adequately address the misuse of the ''automatic stay'' in eviction proceedings.

Let me explain why:

First, once an individual files for bankruptcy, the Feingold amendment only permits an eviction to go forward if the tenant subsequently fails to pay rent again. Thus, a debtor could refuse to pay debts for many months, and when the landlord begins the eviction proceeding, the landlord's hands would be tied if the debtor then starts paying the rent.

This in effect gives a renter the ability not to pay rent, go through bankruptcy, and, by agreeing to pay future rent, get to keep the apartment even if no back rent is paid. In the meantime, he could have had eight or ten or twelve months of free rent.

Second, the amendment gives landlords the incentive to evict tenants immediately upon non-payment. If, according to the Feingold amendment, the landlord begins eviction proceedings more than 10 days after nonpayment of rent and then the tenant files bankruptcy, the eviction would be subject to the automatic stay. This quirk in the amendment could deter landlords from entering into negotiations with tenants and lead to quicker evictions.

Finally, I have concerns about the impact of this amendment on small landlords. I have received letters from small, private landlords about the burden of current bankruptcy law. These landlords, who may own just one or two apartments, report that the nonpayment of rent by tenants threatens their own ability to meet mortgage payments.

I believe strongly in protecting the rights of tenants. However, the Feingold amendment tips the scales too far. A more balanced approach is needed.

Mr. GRASSLEY. Mr. President, how much time do we have on the amendments?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. GRASSLEY. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRASSLEY. Mr. President, I wish to take this particular time to not speak on either one of the amendments before us but to speak about the necessity of passing this bill. Because we have votes on two or three amendments and then final passage, I will not take the time of the Senate at the time of final passage.

As we prepare for final passage on this bankruptcy bill, I remind all my colleagues what we are voting for and on. The most fundamental question we face with this bill is whether or not people should repay their debts.

This bill says that when someone can repay their debts, they are not going to be able to take the easy way out. This bill will end the free ride for wealthy freeloaders and deadbeats who walk away from their debts and pass the bill on to the rest of us, to the consumers, who are honest and who should not pick up the tab for those who are not.

We have a real bankruptcy crisis in need of action. This bill does it without violating the principle that people who are entitled to a fresh start have that fresh start.

As a result of an amendment offered by Senator TORRICELLI and myself, this bill contains the most sweeping, wide-ranging set of consumer protections the Senate has enacted in a long time.

Those of us from farm country have an extra reason to vote for this bill since it contains crucial protections for family farmers who may face bankruptcy due to low commodity prices. Chapter 12 will expire in June unless we pass this bill. Under this bill, farmers in chapter 12 will get significant tax relief when they sell off assets.

Mr. President, this bill is fair and balanced and deserves to be passed by an overwhelming vote.

Mr. President, I ask unanimous consent that two newspaper articles on the subject of bankruptcy be printed in the RECORD.

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

[From the Des Moines Register, May 20, 1999]

THE BANKRUPTCY PARADOX

If you are a single parent in Iowa whose spouse takes the family can, takes the family bank account and takes a powder, society will provide you with something over $300 per month, plus health care and food stamps while you hunt a job. If you don't get on your feet in the alloted time, society may take action to take your kids away.

If you have some assets but have managed to go thousands of dollars in debt by losing big at the casino, society will forgive your debt immediately and let you keep the house and car and continue to gamble. If you're back in the red in a few years, society will bail you out again. And again.

That's the paradox posed by bankruptcy laws. The average American declaring bankruptcy is forgiven $11,000 in debt with no obligation to pay it back. Instead, society pays it. The deadbeat's debts show up in the higher prices you pay and the higher interest on borrowed money.

Don't look for help from the consumer groups or the civil-rights groups or the bankruptcy attorneys. They're fighting against

efforts to hold debtors more responsible, and blaming the credit-card industry for luring the reckless into bankruptcy. No question but that the industry is guilty of inviting deadbeats to go into debt by its indiscriminate pushing of credit cards. For the industry to now complain because some are defaulting is the height of chutzpah.

Their critics argue that the lenders simply want the government, by tightening bankruptcy laws, to become a collection agency for them.

There's plenty of blame for everyone. Too many Americans are flat-out irresponsible in handling money; too many lenders are equally irresponsible in taking advantage of that irresponsibility, and our bankruptcy laws are too eager to make responsible society pay for the mess. As usual.

It's impossible to legislate responsibility. But steps could be taken. We could discourage the credit-card industry from offering credit without checking creditworthiness. We could require that lenders describe credit terms exactly, and explain why paying only the ''minimum balance'' is like owing your soul to the company store. We could eliminate ''Chapter 7'' bankruptcies, which free debtors of any responsibility.

Legislation tightening up the bankruptcy law has cleared the House, with ''yea'' votes from the entire Iowa delegation. Unfortunately, it lets state bankruptcy laws continue to allow the bankrupt to keep their homes, no matter how expensive. Millionaires can still sell their homes, buy mansions in certain states like Florida and Texas, and become ''bankrupt'' millionaires, paying their creditors nothing.

The saddest aspect of the credit mess is in its indictment of the integrity of modern culture. Today's society no longer sees bankruptcy as carrying any stigma, seems no longer to attach any guilt to financial irresponsibility, and teaches that when anything goes wrong in one's personal affairs, it is someone else's fault, and the bailout is someone else's duty.

The price we will eventually pay for this collective soft-headedness could be staggering.

[From the Omaha World-Herald, May 10, 1999]

BANKRUPTCY IS FOR THE NEEDY

The ability to declare bankruptcy and dump one's debts should not become regarded as merely another financial management tool to facilitate irresponsible spending. Such a remedy should be limited to people who truly cannot repay their creditors. That is one of the principles underlying legislation passed by the House despite a veto threat by the White House.

The proposal is an attempt to slow a flood of bankruptcies in the United States. Nearly 1.4 million people filed for personal bankruptcy protection last year, an increase of 95 percent since 1990.

Bankruptcy is a substantial problem. While no official figures exist, creditors have said that the amount of debt that gets wiped out by bankruptcy proceedings each year totals between $30 billion and $50 billion. Some people might say that's good. But such a view would be uninformed. Debts that the law forces creditors to forgive are ultimately paid by others in the form of higher prices.

All sides in the debate agree that current law allows debts to be written off even though the debtor is capable of partial repayment. Studies by the Justice Department and the American Bankruptcy Institute, a nonpartisan think tank in Alexandria. Va., indicate the figure is between $800 million and $1 billion. A study paid for by major credit-card companies came up with $3 billion.

The legislation, pushed by credit card companies, would make it nearly impossible for people earning more than the national median income ($50,000 for a family of four) to wipe out their debts entirely. Rather, the higher income family would have to gradually repay its debts on a schedule set by the court.

Blame for the surge in bankruptcies can be spread widely. Lenders suggest that the number has risen because the laws making it easier to take cover under the bankruptcy laws. Consumer organizations have asserted that lenders, particularly credit-card issuers, are largely at fault because they aggressively push credit—even households with marginal financial resources are targeted by many companies these days.

Clinton administration officials object to the legislation, arguing that it would hurt people who are not capable of repaying their debts.

Debtor attorneys and some bankruptcy experts have said that the new law would bring increased paperwork, raising the cost of filing bankruptcy and making it more difficult for low-income families to take advantage of it.

The problems seem small, however, in relation to the worthy principle that would be strengthened. Anyone who can repay his debts should do so. Period, Bankruptcy should not be an easy out for people who live it up beyond their means. The proposed legislation would redirect the law to cut off their escape route.

Mr. GRASSLEY. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Mr. GRASSLEY. Mr. President, before we have a quorum call, I have a message from Senator SESSIONS, that Senator SESSIONS is willing to have me yield back our time on our side if Senator FEINGOLD is willing to yield back the time on his side.

Mr. FEINGOLD. With that understanding, I yield back my remaining time.

Mr. GRASSLEY. We yield back the time on our side.

The PRESIDING OFFICER. All time has been yielded back.

Mr. REID. Mr. President, parliamentary inquiry: Would the Chair inform the Senators how much time remains? It is my understanding Senator LEVIN has approximately 4 minutes on his amendment. Is that true?

The PRESIDING OFFICER. The time remaining is 4 minutes for the distinguished Senator from Michigan and 2 minutes for the distinguished Senator from Iowa.

Mr. REID. What other time is remaining on the amendments?

The PRESIDING OFFICER. All of the other time has expired.

Mr. REID. I suggest the absence of a quorum, with the time running against both the majority and minority.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, at the end of this matter we are going to vote on these amendments. Then we will have a managers' amendment and finish the bill.

I want to personally express my respect for and appreciation of both Senators GRASSLEY, TORRICELLI, and others for the hard work they have done in bringing this bill through the subcommittee and through the Judiciary Committee and on to the floor. Senator SESSIONS has been a very solid supporter of good bankruptcy legislation, as well as others on the Judiciary Committee—I hate to leave anybody out—but especially Senators GRASSLEY and TORRICELLI. They deserve a lot of respect for what was a very difficult bill to bring through even a subcommittee, let alone the full committee and the floor.

I am hopeful we will get this bill all the way through and signed by the President. It is a bill that will make a great deal of difference in everybody's lives and, I think, will set the bankruptcy code in the direction it should go and stop some of the fraud and some of the misuses of bankruptcy that are going on currently in our bankruptcy system.

There are some things we will have to work on in conference; there is no question about that. We will try to perfect this bill as best we can, hopefully, so that both sides are pleased with it. There are some problems that naturally do exist, but we will work with our friends on the other side and see what we can do to resolve any conflicts we have.

Again, I thank the distinguished ranking member on the Judiciary Committee, Senator LEAHY. He and his staff have played an excellent role, along with the staffs of Senators GRASSLEY and TORRICELLI, in helping to bring this about.

I thank my own staff for the work they have done. All of these staff members have worked diligently to do what is a very good job on bankruptcy.

Having said that, I suggest the absence of a quorum.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, there are 4 minutes remaining for the Senator from Michigan.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield those to the Senator from Vermont, ranking member of the committee.

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

Mr. LEAHY. Mr. President, I intend to vote for the Bankruptcy Reform Act to send it to conference in the hope that we can continue to improve the bill so that a balanced bankruptcy reform bill can be signed into law by President Clinton this year.

We have adopted 45 amendments during the floor debate on this bill—

amendments offered by Republicans and Democrats.

During the course of our floor debate, Senators from both sides of the aisle have come forward to made bipartisan progress to improve this bill from that reported by the Judiciary Committee. I want to thank Chairman HATCH and Senator GRASSLEY for working with us, with me and Senator REID and Senator TORRICELLI, and with the proponents of many amendments. This debate has not been easy with more than 300 amendments filed to the bill back in November. We have worked through those amendments.

Let there be no confusion: This is certainly not the bill that I would have drafted, even now after the amendment process. This is not as good or as balanced a bill as that which the Senate passed by a 97 to one vote in 1998. Still, it has been significantly improved in its bankruptcy provisions through a bipartisan amendment process.

We have worked in good faith with the Republican managers to have an open debate. This is how the Senate works and how it should work. From a total of 320 amendments, we have now worked through them all. That is a bipartisan accomplishment of which we can all be proud.

I have tried during the course of this consideration to protect the rights of Democratic Senators to offer and debate their amendments. While we have not always prevailed after a vote, we have at least been faithful to our Senate tradition and preserved the opportunity to offer, debate and vote in relation to those amendments.

In some significant regard, we have been successful in improving this bill. Over the course of the last three years we have been able to help reshape the bill to protect child support payments as a priority in bankruptcy.

We added modest but essential credit industry reforms to the bill. The millions of credit card solicitations made to American consumers the past few years have caused, in part, the rise in consumer bankruptcies. The credit card industry should bear some responsibility for these problems. The improvements to the Truth In Lending Act that we have been able to add to this measure provide for more disclosure of information so that consumers may better manage their debts and avoid bankruptcy altogether.

We adopted other important amendments to improve the bill, as well. Indeed, we adopted amendments during Senate debate on this bill. I want to list just a few of these important amendments for the record.

The Senate overwhelmingly voted to close the homestead exemption loophole in the Bankruptcy Code. By a vote of 76 to 22, the Senate adopted the Kohl-Sessions amendment to cap any homestead exemption at $100,000. In States such as Florida and Texas, debtors have been permitted to take an unlimited exemption from their creditors for the value of their home. This has lead wealthy debtors to abuse their State laws to protect million dollar mansions from creditors. This has been a real abuse of bankruptcy's fresh start protection.

We adopted the Leahy-Murray-Feinstein amendment to clarify that expenses to protect victims of domestic abuse are necessary expenses in a bankruptcy proceeding. We adopted a Feingold amendment to clarify the long-term expenses of a debtor caring for a nondependent parent or relative are necessary expenses in a bankruptcy proceeding. We adopted the Kennedy amendment to protect a debtor's Social Security benefits in a bankruptcy proceeding. These are good amendments that improve the bill.

We adopted the Grassley-Torricelli-Specter-Feingold-Biden amendment to provide bankruptcy judges with the discretion to waive filing fees for low-come debtors. Bankruptcy is the only civil proceeding without in forma pauperis filing status and this amendment corrects that anomaly. And we adopted the Feingold-Specter amendment that struck the bill's requirement that a debtor's attorney must pay a trustee's attorney fees if the debtor is not ''substantially justified'' in filing for chapter 7. That requirement could have discouraged honest debtors from filing for chapter 7 for fear of paying future attorney fees. Together these amendments improve the fairness of bankruptcy proceedings.

We adopted the Leahy amendment that struck the bill's mandate for all debtors to file past tax returns and instead permits parties in interest to request tax information if needed. The wasteful provision stricken by my amendment should save taxpayers an estimated $24 million over the next five years by cutting down on unnecessary storage costs and paperwork burdens.

We adopted the Reed-Sessions amendment to protect debtors by giving them adequate information for decisions about reaffirmations of unsecured and low-value secured debt. We adopted the Sarbanes-Durbin amendment on disclosure of consumer credit information.

Forty-three amendments were adopted to the Committee bill, many made important improvements, many on a bipartisan basis.

Unfortunately, while we made progress on the underlying bill in many regards, it still lacks the balance that it needs to become good law and remains tilted too far toward making taxpayers and the bankruptcy courts pay for the excesses of the credit industry. It is my hope that with the help of the Administration and the continuing cooperation of Chairman HATCH and Senator GRASSLEY and our House counterparts that we can continue to improve this measure during the course of a House-Senate conference and report a consensus bill that we can all proudly support.

Most threatening to the prospects of this bill becoming law are the nonrelevant, nongermane amendments adopted last November to this bill. Last year, Senate adoption of those nonrelevant, nongermane amendments quite properly led to a presidential veto threat. I will work in the House-Senate conference to have those amendments removed from the conference report and final bill. If they are not, I have grave doubt whether any bankruptcy reform bill can become law this year.

Regrettably the Senate rejected the Kennedy amendment to provide a real minimum wage increase and, on a virtual party line vote, chose to adopt an amendment that includes unpaid tax breaks and a watered down increment in the minimum wage for working people. The President noted that the Republican majority used its amendment ''as a cynical tool to advance special interest tax breaks.''

Last year, the Senate also adopted by a one-vote margin, a poison pill amendment regarding sentencing policy. I opposed this amendment because it attempted to solve the unfair discrepancy between sentences for powder and crack cocaine in precisely the wrong way—by increasing the use of mandatory minimums for those who possess, import, manufacture, or distribute powder cocaine, without taking any steps to reduce the use of disproportionate mandatory minimums for those who commit crack cocaine offenses.

I have repeatedly stated my objections to the shortsighted use of mandatory minimums in the battle against illegal drugs, and my objections are all the more grave when an attempt is made to increase the use of mandatory minimums through provisions placed in the middle of a unrelated bill offered at the end of a session. Returning to the failed drug policies of the recent past is not the way to enact a fair and balanced bankruptcy reform bill.

The bipartisan methamphetamine legislation included in that amendment was passed separately at the end of the last session. Accordingly, the only portion of that amendment worth voting for has already been passed separately. That nonrelevant, nongermane amendment should also be jettisoned in conference.

The Senate's actions last year in adopting the two Republican nonrelevant and nongermane amendments were both unfortunate and unwise. I hope the House-Senate conference committee will discard these two poison pill amendments as we craft a final bankruptcy reform bill that can become law.

I look forward to working with the Senate and House conferees to improve the Bankruptcy Reform Act in conference. I hope the majority has learned from the mistakes made during the bankruptcy reform conference in the last Congress two years ago. This year, we should work together to make further improvements and add balance to the Bankruptcy Reform Act.

Finally, I want to commend Chairman HATCH and Senator GRASSLEY for

their management of this bill and thank Senator REID, our Assistant Democratic Leader, for all his effort and assistance in connection with this matter.

Senator GRASSLEY has persevered in this effort when lesser men would have given up and he continues to work with us in good faith to craft reform legislation.

Chairman HATCH has returned to his important leadership responsibilities in the Senate without missing a step. He is a legislator of the first order with whom I am glad to work on many matters. Today we culminate our work together on initial Senate passage of the Bankruptcy Reform Act so that we can continue our efforts in a House-Senate conference.

Senator REID has worked with me to protect the rights of Democratic Senators and to improve the bill. I have thanked him many times in the days and weeks that we have been on the Senate floor together working to improve this bill and do so, again, today.

I look forward to working together with Chairman HATCH, Senator GRASSLEY, Senator TORRICELLI, the House conferees, and the Clinton Administration on a conference report that leads to enactment of a fair and balanced Bankruptcy Reform Act.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, we yield back the remainder of the time on our side.

Mr. LEAHY. We will on this side, too.

AMENDMENT NO. 2763

The PRESIDING OFFICER. By previous agreement, the amendment pending is on the Schumer amendment No. 2763, with 4 minutes equally divided for final argument and explanation. Who seeks time?

Mr. HATCH. Mr. President, the distinguished Senator from New York is coming to the floor. I suggest the absence of a quorum until we start the 2 minutes of debate on each side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I reiterate to my colleagues how important this amendment is. Six years ago, the rule of law was challenged in this country because some who believed that they had more moral authority than the rest of us could take the law into their own hands and commit acts of violence against clinics, against doctors, against health care workers. They could harass; they could threaten; they could blockade, because they thought they had more moral authority than the rest of us.

The FACE law, a bipartisan law even supported by Henry Hyde, caused that violence to decline significantly. Now they have found a new way against these clinics; that is, once a judgment is made against them because they have violated the law, to hide behind the false shield of bankruptcy.

We will see violence increase. We will see a woman's right to choose impinged upon if we don't pass the Schumer-Reid-Snowe-Jeffords amendment. This is not an issue of simply pro-choice or pro-life. This is an issue about violence against women. This is an issue about the rule of law in America. I urge my colleagues to support the Schumer amendment and preserve a woman's right to make her own decision on the issue of choice.

The VICE PRESIDENT. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, many Members have come to different conclusions as to the need for this amendment concerning the dischargeability of debts related to abortion clinic violence. It is clear from today's debate, nobody in the Congress supports violence at abortion clinics, or at any other venue. Those of us who support bankruptcy reform do not believe that the bankruptcy laws should be used to shield any acts of violence.

Many of us believe that current law already precludes those found guilty of violent activities at abortion clinics from discharging debts arising from such activity in bankruptcy. But apparently the sponsors of the amendment believe there is more than can be done in this area.

Although I believe this amendment to be tremendously flawed, the majority leader, Senator GRASSLEY, and I recommend that members on both sides vote for this amendment. We will, in good faith, in conference correct the amendment and resolve these problems at that time. With this amendment accepted, nobody will be able to politically demagogue this issue in the context of true bankruptcy reform.

We pledge to work with our friends on both sides of the aisle who are interested in this issue during conference to make sure that the law is clear, that with due respect for the first amendment, debts arising from violent acts cannot be discharged in bankruptcy.

Mr. President, have the yeas and nays been ordered?

The VICE PRESIDENT. They have not.

Mr. HATCH. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment of the Senator from New York.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''no.''

The result was announced—yeas 80, nays 17, as follows:—

[Rollcall Vote No. 2 Leg.]

YEAS—80

Abraham	Edwards	Lott
Akaka	Feingold	Mack
Ashcroft	Feinstein	McConnell
Baucus	Frist	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Grassley	Murray
Bingaman	Gregg	Reed
Bond	Hagel	Reid
Boxer	Harkin	Robb
Breaux	Hatch	Rockefeller
Bryan	Hollings	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee, Lincoln	Inouye	Schumer
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Landrieu	Thurmond
Daschle	Lautenberg	Torricelli
Dodd	Leahy	Warner
Domenici	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—17

Allard	Grams	Roberts
Brownback	Helms	Sessions
Bunning	Hutchinson	Smith (NH)
DeWine	Kyl	Thompson
Enzi	Lugar	Voinovich
Gramm	Nickles	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Burns McCain

The amendment (No. 2763) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, could we have order, please.

The VICE PRESIDENT. The Senate will be in order. Senators will cease all conversation or retire to the Cloakrooms.

The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent the next series of votes be limited to 10 minutes in length.

The VICE PRESIDENT. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object.

The VICE PRESIDENT. The Senator from Vermont.

Mr. LEAHY. Mr. President, reserving the right to object, and I will not object, I did want to thank the Presiding Officer. I know he has had a busy day and evening and night. I thank him for coming back and joining those of us who supported this amendment.

I will not object.

The VICE PRESIDENT. Without objection, it is so ordered. There remains 4 minutes equally divided on the Feingold amendment.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, my amendment is designed to lessen the harsh effects of section 311 of the bill on tenants, while at the same time protecting the legitimate financial interests of landlords.

Mr. WELLSTONE. Mr. President, could we have order in the Chamber, please?

The VICE PRESIDENT. Senators will cease audible conversation. Even on the dais.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, current law provides for an automatic stay of eviction proceedings upon the filing of a bankruptcy case. Landlords can apply for relief from that stay so eviction can proceed, but under current law the process often takes several months. Section 311 of the bill eliminates the stay in all landlord-tenant cases so eviction can proceed immediately.

My amendment would allow tenants to remain in their apartments as they try to sort out the difficult consequences of bankruptcy, if and only if they are willing to pay the rent that comes due after they file for bankruptcy. If the tenant fails to pay the rent, the stay can be lifted 15 days after the landlord provides notice to the court that the rent has not been paid. So no hearing and no delay. If the reason for the eviction is drug use or property damage, the stay can also be lifted after 15 days. Under the amendment, this 15-day notice period does not apply if the tenant has filed for bankruptcy previously. In other words, in the case of repeat filings, the automatic stay would never take effect, just as under section 311 in the bill.

Under my amendment, therefore, you could never live rent free as some of the opponents suggest. The debtor has to pay rent after filing for bankruptcy. If a debtor misses a rent payment, the stay will be lifted after 15 days. So the amendment gets at the abuse and it protects the rights and economic interests of the landlord. What it does eliminate is the punitive aspect of the bill. We have modified this so it is fair. The major reform in favor of landlords still holds, but there has to be some fairness and balance with regard to the effect of the bill on evictions. That is what I am trying to protect through this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The time allotted to the distinguished Senator has expired. The Senator from Iowa is recognized for 2 minutes. The Senate will be in order.

The Senator from Iowa?

Mr. GRASSLEY. I yield my time to the Senator from Alabama.

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

Mr. SESSIONS. I thank the Chair. You got it right.

Mr. President, I must register my strongest opposition to this amendment. It continues the one thing that causes so much grief. It makes a Federal case out of eviction proceedings. We know that in Los Angeles 3,886 bankruptcy cases were filed in 1996 simply to delay the eviction cases that were pending in the State court. In other words, if you file for eviction, under the current law when a person files bankruptcy, that eviction case is stayed. It then goes to bankruptcy court.

The landlord, many of whom are individual people without great wealth, have already hired a lawyer to handle the eviction and now has to hire a Federal court bankruptcy lawyer to go into Federal court. After they win, as they always do because an expired lease is not an asset of the estate and cannot be subject to the control of the bankruptcy judge, they have to then go back to State court, ask the State judge to pick up the litigation, and proceed.

The 15-days that the Senator suggests is better than his first amendment, but it does in no way deny the person from going to Federal court. They can then have a hearing after the 15 days. They can contest whether the tenant used drugs or not in Federal court. They are evicting them from the apartment because of drug use or other reasons.

We simply should not do this. The true fact is that eventually all these contests in bankruptcy court are eventually lost. Why go through the process? Let the State court eviction proceedings hold sway and make the decisions where they have always been made.

Mr. FEINGOLD. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BUNNING). The yeas and nays have been requested. Is there a sufficient second?

Mr. GRASSLEY. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2748, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''yea.''

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—54

Abraham	Bunning	Coverdell
Allard	Campbell	Craig
Ashcroft	Chafee, Lincoln	Crapo
Bennett	Cochran	DeWine
Bond	Collins	Domenici
Brownback	Conrad	Enzi
Feinstein	Inhofe	Santorum
Frist	Kyl	Sessions
Gorton	Lieberman	Shelby
Gramm	Lincoln	Smith (NH)
Grams	Lott	Smith (OR)
Grassley	Lugar	Snowe
Gregg	Mack	Stevens
Hagel	McConnell	Thomas
Hatch	Murkowski	Thompson
Helms	Nickles	Thurmond
Hutchinson	Roberts	Voinovich
Hutchison	Roth	Warner

NAYS—43

Akaka	Feingold	Mikulski
Baucus	Graham	Moynihan
Bayh	Harkin	Murray
Biden	Hollings	Reed
Bingaman	Inouye	Reid
Boxer	Jeffords	Robb
Breaux	Johnson	Rockefeller
Bryan	Kennedy	Sarbanes
Byrd	Kerrey	Schumer
Cleland	Kerry	Specter
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	
Edwards	Levin	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Burns McCain

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2658

The PRESIDING OFFICER. Under a previous order, there are 4 minutes divided on the Levin amendment. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Mr. President, my amendment very simply provides that gun manufacturers or distributors cannot evade responsibility for damages which are caused by their reckless or negligent conduct or their fraudulent conduct by reorganizing in bankruptcy.

The question has been raised, why single out one industry? The answer is, there are 18 exemptions in the bankruptcy law. We have singled out 18 different instances where public policy is such that we have decided people should not be able to discharge their debts. For instance, students who take out student loans cannot discharge their obligations in bankruptcy. So where public policy indicates we should say something is not dischargeable, we have done that on 18 different occasions.

This amendment is strongly supported by the League of Cities and by the Conference of Mayors. About 30 cities have initiated lawsuits, cities from all parts of the country: New Orleans, Chicago, Atlanta, Cleveland, Cincinnati, St. Louis, and San Francisco being among them.

This is a response to a tactic which is being used by a number of gun manufacturers that are being sued for reckless or negligent or fraudulent conduct, saying: No, we are going to hold you accountable. You cannot reorganize

yourself in bankruptcy out of accountability and responsibility for the damages that have been caused by your own reckless or negligent conduct.

I hope this amendment will pass. It has the support of the Violence Policy Center which points out that the gun industry is the only industry that is exempt from Federal health and safety regulations. There is no other industry explicitly exempt except for firearms manufacturers. Insisting they not be able to escape liability for their own reckless or negligent conduct is certainly in keeping with the exemption they sought from Federal health and safety regulations since judicial liability is the only way in which they can be held accountable.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Utah.

Mr. HATCH. Mr. President, I have said before, this amendment bars firearm manufacturers and sellers, including retailers, from business reorganization under the bankruptcy code by not allowing the discharge of debts that might result from one of these recently filed tort suits. That means a major retailer could go bankrupt and would not be able to reorganize to be able to pay off their debts. It would just gradually be sold off to meet the needs of this particular amendment. Manufacturers that could pay off injured parties substantially in full over time would simply not be able to do so under this amendment. Instead, they would be forced into liquidation.

It is both poor policy and a dangerous precedent to single out an unpopular industry for unfavorable treatment under the bankruptcy code. This is political correctness gone awry. As I recall, there are 18 exemptions on the personal side but none on the corporate side in this bill so far. Let us keep the bankruptcy laws nondiscriminatory in the sense of attacking and loading it up on an unpopular business just for political purposes. That is the wrong political correctness to be used. In this particular case, it just doesn't make sense. We ought to want them to go into reorganization so the debts could be paid and the business might be able to survive. That is why this amendment needs to be voted down.

I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2658. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''no.''

The result was announced—yeas 29, nay 68, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—29

Akaka	Hollings	Murray
Biden	Inouye	Reed
Boxer	Johnson	Reid
Chafee, L.	Kennedy	Rockefeller
Cleland	Kerry	Sarbanes
Daschle	Kohl	Schumer
Durbin	Lautenberg	Torricelli
Feinstein	Levin	Wellstone
Graham	Mikulski	Wyden
Harkin	Moynihan	

NAYS—68

Abraham	Dorgan	Lott
Allard	Edwards	Lugar
Ashcroft	Enzi	Mack
Baucus	Feingold	McConnell
Bayh	Frist	Murkowski
Bennett	Gorton	Nickles
Bingaman	Gramm	Robb
Bond	Grams	Roberts
Breaux	Grassley	Roth
Brownback	Gregg	Santorum
Bryan	Hagel	Sessions
Bunning	Hatch	Shelby
Byrd	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Conrad	Jeffords	Stevens
Coverdell	Kerrey	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Leahy	Voinovich
Dodd	Lieberman	Warner
Domenici	Lincoln	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Burns McCain

The amendment (No. 2658) was rejected.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 625) was ordered to be engrossed for a third reading and was read the third time.

BANKRUPTCY JUDGESHIPS

Mr. COVERDELL. Mr. President, the Judicial Conference recommends that Congress authorize 24 new bankruptcy judgeship positions in districts where bankruptcy filings and judicial caseloads are particularly burdensome. S. 625 authorizes 18 of these judgeships; these same positions were included in the conference report to the bankruptcy legislation in the 105th Congress. S. 625 does not, however, include six positions that the Judicial Conference submitted to Congress on March 24, 1999.

I thank the chairman of the Subcommittee on Administrative Oversight and the Courts for working so closely with me in my efforts to include these judges in the pending legislation. The chairman conducted a joint hearing with the House Judiciary Committee on November 2, 1999 to consider these six additional judgeships and has given them appropriate scrutiny. I have consulted with the Chairman both before and after this hearing regarding these judgeships, and I believe I have his commitment to address these positions when S. 625 is conferenced with the House.

Mr. GRASSLEY. If the Senator from Georgia will yield. I can assure him that during the conference with the House on S. 625, I will in good faith address the Judicial Conference's recommendation for the additional judgeships. The hearing in November was indeed useful in helping us assess the merits of authorizing these additional judgeships. Subsequent to that hearing, my staff and I have engaged in discussions with the Administrative Office to clarify some remaining questions and concerns. I can report that most of my requests have been satisfactorily addressed. However, I am still awaiting some additional information, and so I am reluctant to add these positions to S. 625 at this time.

Mr. COVERDELL. I thank the Chairman for his efforts and assurances. As a fiscal conservative myself, I understand and appreciate his dedication to ensuring that these positions are truly warranted.

One of these new judgeships would help address a judicial caseload problem in Georgia. This new position would actually provide relief to two Georgia districts where caseloads far exceed the national average. By authorizing a new judgeship for the Southern District, an existing judgeship that is currently split between the Southern and Middle districts would move full-time to the Middle District.

Mr. GRASSLEY. I thank the Senator for his statement and for his efforts in moving this issue forward.

Mr. MOYNIHAN. Mr. President, I rise today to voice my concern over the bankruptcy bill that is before the Senate. I do this not because I am an expert on bankruptcy law, but because I have been involved with social policy for almost a half-century and can tell you that this is no way to reform the bankruptcy system.

A May 9, 1999, New York Times editorial said that the House bill is ''bankruptcy reform that spares the wealthy . . . and makes life harder for poor and middle-class people who file for bankruptcy.'' Representative HENRY HYDE (R–IL) said the bill is ''truly tilted toward the creditors.'' The Senate bill is not much better. The effect of the bill is not complicated—the wealthy benefit, the poor suffer. After the President signed the Personal Responsibility and Work Opportunity Act of 1996—the so-called welfare reform bill—I stated that ''this act terminates the basic Federal commitment of support for dependent children in hopes of altering the behavior of their mothers.'' That bill broke the Social Contract of the 1930s. We would care for the elderly, the unemployed, the dependent children. Drop the latter;

watch the others fall. We broke the social contract then, and will again if this bill passes.

We were born a nation of debtors. A large number of early European settlers came here indentured. The British rejection of debtor relief laws in Massachusetts and Virginia was one of the precipitating factors of the Revolutionary War. In justifying its actions, the British Board of Trade noted that 9 out of every 10 creditors resided in Great Britain—the Americans were the debtors. Shays' Rebellion, which followed the War of Independence, was a direct response by farmers to the courts' attempt to imprison fellow farmers for their debts.

Daniel Webster understood the tension and possible dangers that could arise between debtor and creditor. Speaking in Congress on the Bankruptcy Act of 1841, the Massachusetts statesman remarked on the post-Revolutionary crisis:

> The relation between debtor and creditors, always delicate, and always dangerous, whenever it divides society, and draws out the respective parties into different ranks and classes, was in such condition in the years 1787, 1788, and 1789 as to threaten the overthrow of all government; and a revolution was menaced, much more critical and alarming than that through which the country had recently passed.

In an attempt to address the relationship between debtor and creditor, the U.S. Constitution was adopted with explicit bankruptcy authority granted to Congress. Congress came up with the Bankruptcy Act of 1800, which was similar to the English law in effect at the time of independence. The 1800 Act was repealed in 1803. One of the unfortunate stories from this period was that of Robert Morris, who had the honor to sign the Declaration of Independence, the Articles of Confederacy, and the U.S. Constitution. After creating the budget for the early American government and heading the Yorktown campaign, he experienced considerable misfortune speculating on land out West, incurring debts that landed him in Philadelphia's Prune Street Jail from 1798 to 1801. Morris was eventually relieved by the Bankruptcy Act of 1800.

Following the devastating Panic of 1837, the controversial Bankruptcy Act of 1841 became law. It was repealed 18 months later. The 1841 Act for the first time in British or American law allowed the debtor to file for bankruptcy. Until this time, only creditors could put a debtor into bankruptcy, which made it easier to collect their debts. Although the Supreme Court did not address the 1841 Act before it was repealed in 1843 because of political resistance, its constitutionality was upheld at the circuit level, bringing voluntary bankruptcy by non-merchants within the scope of Congress' bankruptcy power.

Under the 1841 Act, 33,739 debtors were adjudicated bankrupt, of whom only 765 were denied a discharge. (If you were to declare bankruptcy in Illinois, your attorney very likely would have been Abraham Lincoln.)

The panic of 1857 and the devastation of the Civil War brought enactment of the Bankruptcy Act of 1867, repealed in 1878. The 1867 Act allowed the debtor to retain increased exempt property under state or Federal exemptions and required a 50 percent distribution to creditors and creditor consent as preconditions to a discharge. But, the 1867 Act contained so many grounds for denying discharge that fewer than one-third of the debtors filing under the Act ever received one discharge.

These three laws were born and died amid controversy. But taken together, they contained grand innovations that greatly helped ordinary American debtors: Individual debtors were given voluntary access to bankruptcy relief, to broader state exemptions, and to the discharge of their debts with less creditor approval.

The Bankruptcy Act of 1898, largely with us today in concept although supplanted by the 1978 Bankruptcy Reform Act and subsequent amendments, consolidated and improved many of these innovations for the benefit of debtors.

In 1934 the United States Supreme Court encapsulated the American view toward the discharge of individual debtors through bankruptcy as follows:

> One of the primary purposes of the Bankruptcy Act is to relieve the honest debtor from the weight of oppressive indebtedness and permit him to start afresh free from the obligations and responsibilities consequent upon business misfortunes. This purpose of the act has been again and again emphasized by the courts as being of public as well as private interest, in that it gives to the honest but unfortunate debtor who surrenders for distribution the property which he owns at the time of bankruptcy, a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt.

America is truly the land of the second chance. To repeat the Supreme Court, our nation believes in a bankruptcy system that ''gives the honest but unfortunate debtor who surrenders for distribution the property which he owns at the time of bankruptcy, a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt.'' This nation has been blessed with a hard-working, independent, creative, and risk-taking citizenry. We also have embraced a free-market economy that has brought us great wealth and prosperity. But with this economic system comes great risks (and opportunities) for our citizens, and relatively meager safety nets are provided. The fresh start that bankruptcy provides is one of those safety nets. Let's not shred that safety net with this bill.

The bill before us contains an arbitrary means test that makes it harder for low to moderate income people to wipe out their debts and start clean, includes provisions favoring the credit card industry, provides inadequate consumer protections, incorporates insufficient privacy safeguards, and will have a disproportionately negative impact on individuals with lower incomes, minorities, and older Americans.

This bill punishes the wrong people. We seem hell-bent to punish elderly people who incur unexpected health bills or individuals who unexpectedly lose their jobs. Instead, why don't we address the credit card industry's predatory practices? Credit card issuers mailed out 3.45 billion—not million but billion—solicitation letters last year. Professor Elizabeth Warner of Harvard Law School said that banks make so much money on unpaid credit card balances—thanks to interest rates much higher than those of home mortgages, car loans or other forms of ''secured'' debt—that they deliberately lure people into borrowing beyond their means. Now, they are trying to get Congress to rig rules so their own loan losses will be reduced. This is special interest legislation at its worst.

Locke wrote that government has a fiduciary responsibility to act in the best interest of the people. If we pass this bill, we will be breaching that duty and undermining the fundamental sense that our government is founded on the twin principles of decency and fairness, a unique system that believes in extending a helping hand rather than a boot across the throat.

Mr. DURBIN. Mr. President, the Senate has been debating, S. 625, the bankruptcy reform bill for weeks. I am happy to say that many Democratic amendments have been accepted which have brought much needed balance to the bill.

The issue of bankruptcy is a highly technical and convoluted area of our law replete with terms like cram downs, reaffirmations, panel trustees, automatic stays, nondischargeable debt, priority debt, secured debt, and even something known as a ''superdischarge.''

And the bankruptcy code is not only complex and arcane. It is the fulcrum point of a delicate balance. When you push one thing, almost invariably something else will give. That's because no matter how hard you try there is a limited resource pie. All we do many times is increase the fighting over the small pie—and usually no one really wins that fight.

The Senate made several improvements to ease the burdens on low income debtors while making sure that wealthy debtors pay their fair share. The Senate adopted my amendment to allow debtors to attend mandatory credit counseling by telephone or over the Internet, which will make it easier for debtors with transportation difficulties. By adopting a cap on the homestead exemption of $100,000, Congress will continue the longstanding policy of giving a debtor a fresh start—not a windfall.

Improvements were also made to make the bill more cost effective and less expensive for taxpayers. My

amendment to streamline the means test for debtors between 100 and 150% of the median income was adopted and will save the taxpayers $8 million a year in administrative costs. In addition, Senator LEAHY's amendment to exempt certain debtors from the requirement of filing 3 years of tax returns will reduce both costs and undue burdens on low income debtors.

Finally, tremendous progress was made on the bill in the area of credit card disclosure. If we are going to make it harder for people to file for bankruptcy, then we need to provide them enough information to ensure they are making informed decisions about their credit.

I was happy to join Senator SARBANES in an effort to require creditors to warn consumers about interest costs and provide toll free numbers where debtors can learn how long it will take to eliminate a credit card balance by making only the minimum monthly payment.

I will be watching the bankruptcy conference closely to ensure that all of the hard fought amendments adopted on the Senate floor remain in the bill through conference. If these provisions are stripped out in conference, then this bill will likely face the same fate as last year's bill—it will never become law.

Because of improvements in areas of concern to me, I will vote for the underlying bankruptcy legislation, but I want to make clear my opposition to the Republican minimum wage measure. It was clear from last year's debate and it's clear today that the Republican minimum wage does little to help America's lowest wage earners. In fact, it's a slap in the face for all of our hardworking citizens who strive every day to lift themselves out of poverty and into a better way of life.

Over the next three years, a minimum wage worker would receive over $1,200 less under the GOP version than the Democratic proposal. Let's break that down, Mr. President, into real terms. For America's lowest wage earners: $1,200 a year translates into over four months worth of groceries, over three months of rent, almost half a year worth of utilities. For the lucky ones, that's one full year of tuition and fees at a two-year college. Yet, the Republicans want to deny their constituents this opportunity and I can't understand why.

Mr. President, this Republican minimum wage proposal sounds vaguely familiar to us. You may recall how the other side of the aisle tried to stretch out tax refunds for our lowest income workers under the Earned Income Tax Credit. We grant tax relief to those that need it most and then the Republicans turn around and try to delay their refunds. These types of delaying tactics didn't work for the EITC and they certainly won't work for an increase in the minimum wage.

Something I've heard very little about, and maybe it's because the Republicans don't want you to know about it, is Section Two of their amendment that effectively repeals overtime pay provisions of the Fair Labor Standards Act that have been the law for over 60 years. This provision would eliminate the requirement that bonuses, commissions, and other compensations based on productivity, quality, and efficiency be considered part of a worker's ''regular rate'' of pay for purposes of calculating overtime pay. Because overtime pay is based on one and a half times regular pay, overtime pay is lower if a worker's regular pay is lower. Today, almost 73 million Americans are entitled to overtime pay and the GOP provision jeopardizes their overtime benefits. Think about it. If employers can pay less for overtime, they have a financial incentive to require workers to work overtime without getting the pay they deserve. That's another slap in the face on top of the one they get from this half-hearted attempt to raise their wages from $5.15 an hour.

Mr. President, it's clear that the Democratic bill would do a better job at getting a pay increase to those who need it most. On our side of the aisle, we believe it's not only our obligation, but our duty to help those who need it the most. It is my hope that the conference committee will wake up and remedy this malady that will be imposed on the American people by the Republicans should this bill become law.

Mr. ROBB. Mr. President, I would like to begin by thanking my colleagues, Senators TORRICELLI and GRASSLEY, for their leadership in putting together the bankruptcy legislation that is before us today. I was one of the co-sponsors of the initial bankruptcy bill and continue to support the legislation that is before us today. I'm concerned, however, that we are including a tax provision which runs counter to the entire essence of the bill.

As we finish debate on this measure, we ought to focus on one overriding theme: responsibility. In the context of bankruptcy, this includes both financial and social responsibility. Debtors need to be more responsible when making decisions about purchasing goods or services. And just as we expect those who purchase goods and services to pay for these benefits, we expect lenders and sellers to be responsible in their business practices. This is going to be a difficult balancing act—both sides are going to have to give a little bit. Right now, I hope that we are closer to fixing many of the problems that needed to be addressed.

Financial responsibility, however, is not just relevant for our debate today—it needs to become a theme for this Congress. This bankruptcy bill is based on a simple premise: if you are able to pay your debts, you should. I believe this premise should also be applied to the federal government. For decades, the government spent more than it took in. It ran up a $5 trillion debt. We are now in a position to pay our debts. Before we go on a massive tax-cutting or spending binge, we should focus on reducing our debt. It rings hollow for us to insist upon financial responsibility from individuals and then fail to exercise financial responsibility ourselves.

We should start this session exercising fiscal restraint, and we should begin with this bill. It is ironic that this bill contains a tax cut that costs more than it should and fails to hit its target. Although the tax package contained in this bill is being described as helping small businesses, it is poorly targeted and will provide little help to the businesses that will be most affected by the minimum wage bill.

If minimum wage legislation continues to move forward, I urge my colleagues to look once again at S. 1867, The Small Business Tax Reduction Act of 1999, the bill that Senator BAUCUS and I introduced last November. This tax package offers real relief to those employers who will be most affected by the minimum wage increase. That was the purpose of the minimum wage tax bill, and our bill accomplishes that goal.

For instance, our bill would accelerate the full deduction for self-employed health insurance so that it takes effect immediately instead of delaying it for several more years. Our bill would increase the expensing limit for small businesses so they can purchase new and better equipment. We would also raise the business meals deduction from 50% to 60% to help restaurants accommodate increased labor costs.

At the same time, we would provide estate tax relief for small family-owned farms and businesses. Death is an inappropriate catalyst for the forced sale of a family-held business or farm. Farmers would benefit as our bill would be sure that income averaging does not increase a farmer's potential Alternative Minimum Tax liability. We also provide farmers with a longer period to use their net operating losses if they have them. These are real tax provisions that help real people.

The Small Business Tax Reduction Act of 1999 also contains provisions targeted to geographic areas with the greatest need of economic assistance. The New Markets proposal, for example, would reward employers who operate in economically distressed areas, where the minimum wage is the most prevalent. It also includes a credit that encourages employers to give their lower income employees information technology training. We also expand current empowerment zones credits so that more communities and more people are able to take advantage of these credits. These are all provisions that will provide assistance to areas that are most in need of help.

Moreover, the pension provisions in our bill are designed to address the needs of small employers struggling to

develop effective retirement plans for their employees. For example, we would allow small businesses to take plan loans as large businesses can, and we have included Senator BAUCUS' proposal to provide a credit for new small business pension plans. Everyone benefits when small businesses are better able to offer their employees retirement plans.

In short, the tax package I offered accomplishes the purpose of providing relief to those employers who will have higher costs when the minimum wage increases. And it is responsible. It does not squander the surplus that we have fought so hard to achieve, but rather maintains it for debt reduction. At the same time, it protects Social Security Trust Funds from being misallocated to other programs and expenditures. The tax package that is currently contained in the bill is not responsible and must be substantially improved in conference. We are going to face several tough issues this year. I hope that our colleagues agree that this is the time to start.

Mr. KOHL. Mr. President, I rise today to express my guarded support for the Bankruptcy Reform Act currently before the Senate. The troubling and dramatic rise in the number of bankruptcy filings demands our careful attention, and this legislation—if balanced and fair—will shore up the most significant cracks in our current system, but still grant a ''fresh start'' to those debtors who truly deserve it.

One of the ways this bill works to eliminate the most egregious abuses of the bankruptcy code is by finally placing a federal cap on the unlimited homestead exemption. This provision, which I introduced with Senators SESSIONS and GRASSLEY, would close an inexcusable loophole which currently allows millionaire deadbeats to keep their luxury homes while their legitimate creditors get left out in the cold. A cap is not only the best policy, it sends the best message: that bankruptcy is a tool of last resort, not a tool for financial planning.

And don't just take my word for it: ask my colleagues in the Senate. At the end of last session, we passed our $100,000 homestead cap by an overwhelming margin of 76–22.

However Mr. President, if this legislation comes out of Conference unbalanced, rest assured that I will be happy to vote against final passage of the bill, as I did last Congress. A major factor in my determination of what constitutes ''balance'' will be the status of the homestead cap.

That said, I support this bill today because I believe it will repair and improve our bankruptcy system, and help restore the stigma to bankruptcy. But without the homestead cap, this bill will likely fall short of its goal.

Mr. LEVIN. Mr. President, in the 105th Congress, the Senate passed a meaningful bankruptcy reform bill by an almost unanimous vote. I voted for that bill because I thought it was a well-balanced reform bill that would discourage abuse of the system and provide enhanced protections and reasonable information to consumers. The final version of that bill was not approved in the 105th Congress, and so, once again, we engaged in debate over how to restructure the nation's bankruptcy laws. When we started debate on this bill, it was substantially different from the moderate, bi-partisan bill of last Congress. I was particularly concerned with the provisions relative to the means-test and consumer credit card disclosures. However, over the course of this debate, the Senate has adopted more than 40 amendments, making this a more reasonable approach to bankruptcy reform.

As reported out of the Judiciary Committee, the bankruptcy reform bill did not include consumer protections providing reasonable disclosures of unsecured credit such as credit cards. Studies show that bankruptcy filings increase as household debt increases. High debt-to-income ratios makes working Americans more vulnerable to financial emergencies. I am pleased that the Senate accepted an amendment to provide enhanced access to consumer credit information. Creditors will be responsible for warning debtors about potential dangers of paying only minimum monthly payments and will make a toll free number available to the debtor for more specific information. Although this is not as helpful as the Senate's 1998 bill, it is a step in the right direction. The previous bankruptcy bill gave specific information to consumers about the months and years it would take for consumers to pay off their debts by paying the minimum payment and provided them with their total costs in interest and principle. A more detailed disclosure regarding minimum monthly payments will help families exercise personal responsibility and limit financial vulnerability.

In addition, the Senate has made modest steps relative to the bankruptcy bill's means-test. The purpose of a means-test is to prevent consumers, who can afford to repay some of their debts, from abusing the system by filing for Chapter 7. Directing so-called abusive debtors away from Chapter 7, where debts are forgiven, and into Chapter 13, where the debtor must enter into a debt repayment plan, makes sense. But an inflexible means test, with virtually no exceptions, will, in the words of HENRY HYDE, ''deprive debtors and their families of the means to pay for their basic needs.'' I hope that in conference, the Senate-House conferees will work toward establishing a more flexible means-test, one that makes allowances for basic expenses such as transportation, food and rent.

I am pleased that two amendments I sponsored, a credit card redlining study and the prohibition of retroactive interest charges, were accepted by the Senate. The redlining amendment requires the Federal Reserve to conduct a study and report to the Banking committee about whether financial institutions use place of residence as a factor in determining credit worthiness. It is an important study that will bring to light the problem of unequal credit opportunity.

My other amendment seeks to clarify what credit card companies refer to as a ''grace period.'' Credit card lenders use complicated definitions to explain that ''grace periods'' only apply if the balance is paid in full. For example, assume that a consumer charges an average of $1000 each month and always repays in full on time. If one month, due to an error he writes a check that is $10 less than the full amount he owes, but which is paid on time and is within the ''grace period,'' he probably would expect to pay the $10 charge and the interest on the $10 unpaid balance. However, he is really charged retroactively on the full $1,000 balance to the date the charges were made, even though he had paid 99% of the balance. This consumer's $10 error ends up costing him up to four times that in interest charges.

Current practice by these companies undermines reasonable consumer expectations about what how a grace period for their payment works and results in monetary penalties from the application of interest charges. This amendment makes clear that the definition of a grace period is one where a consumer is extended credit. No finance charge can be imposed on the amount paid before the end of the ''grace period.''

I have decided to support this bill. However, I am very concerned by the inclusion of non-germane tax provisions which spend $76 billion of the projected non-Social Security surplus over the next ten years. While some of the provisions included in this package make sense, it is premature and unwise for the Congress to begin spending a surplus which is uncertain before we have begun to pay down the national debt and assured that our priorities in protecting Social Security and Medicare, investing in education, and considering other types of tax cuts have been met. For that reason, should this legislation come back from conference with some of these tax provisions or without the modest amendments we adopted in the Senate, I will consider opposing the bill at that time.

Mr. BYRD. Mr. President, I shall vote in favor of S. 625, the Bankruptcy Reform Act of 1999, in order to restore fiscal responsibility to the nation's bankruptcy code. Last year, a record 1.4 million people declared bankruptcy, which was almost triple the number in 1988 (549,612) and five times the number in 1980 (287,057). That the number of households in severe financial difficulty has risen so dramatically is perplexing, given the prosperous economy, and suggests that some filers are abusing the bankruptcy code to erase debts they are able to pay. The dramatic rise in bankruptcy filings may also suggest

that there is no longer a stigma attached to bankruptcy filers, and that the bankruptcy laws are seen more as a financial planning tool rather than a system of last resort. This bill would curb potential abuses of the bankruptcy code by channeling debtors away from chapter 7 liquidation, where a debtor's liabilities are erased, and towards chapter 13 repayment, where debts are reorganized under a repayment plan. While I am not satisfied that this bill will decrease the bankruptcy rate as dramatically as advocates claim, I am convinced that S. 625 is a worthwhile effort in restoring fiscal responsibility.

However, during the bankruptcy debate, the Republican-controlled Senate passed an amendment that would attach $75 billion in tax cuts over ten years to the bankruptcy bill. These tax cuts were adopted in lieu of targeted cuts that would have benefitted low-income and rural families, which I supported, and that would have been fully paid-for by closing down tax loopholes that would force businesses to pay their fair share of taxes. Instead, the Senate adopted a tax package that would not have been paid-for, and would largely benefit high-income taxpayers. This means that Congress may have to borrow needed money or cut spending to vital programs that benefit hundred of thousands of West Virginians in order to pay for these tax cuts. It is almost ironic that Congress attached these unpaid-for tax cuts to the bankruptcy bill. Here we are today voting on a bill that would demand financial prudence of debtors at the same time that Congress is providing for $75 billion in unpaid-for tax cuts.

In addition to these tax cuts, the Senate rejected a minimum wage proposal by Senator KENNEDY, which I supported, that would have raised the minimum wage from $5.15 to $6.15 over two years. Instead, the Senate adopted a one dollar rise in the minimum wage over three years that was proposed by Senator DOMENICI. This would effectively delay a pay raise to minimum wage workers, and cost year-round, full-time minimum wage workers approximately $1,200 over three years. I have always supported the minimum wage because of the 11.4 million workers who rely on it to support their families. The two-year minimum wage proposal would have provided an additional $2,000 a year for 11.4 million minimum wage workers. That $2,000 translates into an additional seven months of groceries, five months of rent, almost ten months of utilities, and eighteen months of tuition and fees at a two year college.

My hope and expectation is that the three year minimum wage hike and $75 billion tax cut provisions will be replaced with a two year minimum wage rise and more targeted tax package when the conferees from the House of Representatives and the Senate meet in the coming months to work out the differences between the House- and Senate-passed versions of this legislation. Consequently, I have joined with forty-four other senators in sending a letter to the bankruptcy conferees urging that they remove the Domenici provisions and accept the Kennedy proposal.

Mrs. LINCOLN. Mr. President, I voted for final passage of the Bankruptcy Reform Act today because bankruptcy reform has been desperately needed in this country and I have worked throughout my public career to bring it about. This bill, however, is not without its problems. It is my sincere hope that the Bankruptcy bill that emerges from the Conference Committee will be just that, a Bankruptcy Bill. I believe that the nonbankruptcy and poison pill riders that were added to the bill on the floor should be stripped, or at least reformed in Conference, so that we can move forward on bankruptcy. Our country needs, and we owe to our constituents, a bankruptcy bill that the President will sign.

Mr. President, we made various amendments to this bill which should be readdressed in Conference and changed. For instance, I am pleased that this body passed an increase in the minimum wage for working families in Arkansas. However, I urge my Colleagues in Congress to strengthen this provision in Conference implementing the $1.00 increase over two years instead of three.

I also support tax cuts, however, the tax cuts in this bill are not paid for and will do nothing to help small business and working people. I am especially disappointed that this body failed to pass the needed estate tax relief for family farms and small businesses that was included in the tax amendment offered by the Minority.

The Senate also agreed to an amendment during consideration of this bill designed to combat the spread of methamphetamine use in rural and urban areas. While I agree we must do something to stop the terrible spread of meth use in our country, I voted against that amendment because, as the language stands, it will allow federal education funding to be spent for tuition at private and religious schools. Everyone wants to fight the scourge of drugs. Let's have a clean amendment so we can move forward as a nation and fight against methamphetamine with a concerted effort.

These are just a few examples of what needs to be fixed in this bill. If we really want bankruptcy reform to become a reality we have to craft a bill that the President will sign. Without a hard working conference and bipartisan efforts, this can't possibly happen. I urge my colleagues to work together to bring a clean bill back from the conference, and to bring needed bankruptcy reform home to the American people.

Mrs. FEINSTEIN. Mr. President, I rise to support the underlying goal of the bankruptcy bill, which is to promote personal financial responsibility. Bankruptcy filings have increased at an astonishing pace since the last overhaul of the Bankruptcy Code in 1978. In 1978, there were 182,000 consumer bankruptcy filings. Twenty years later in 1998, 1,444,812 people filed for bankruptcy. Bankruptcy has become so commonplace that more than one in a hundred households will file for bankruptcy this year.

The rise in bankruptcy filings is particularly disconcerting given the record expansion of our economy, which this week became the longest expansion in our Nation's history.

Bankruptcy should be a last-resort legal option, and not a vehicle for avoiding personal responsibility. People should not be able to file bankruptcy if they can easily pay back their debts.

Another key aspect of bankruptcy reform is the need to address the growth of consumer credit. It's a simple matter of arithmetic. The typical family filing for bankruptcy in 1998 owed more than one-and-a-half times its annual income in short-term, high-interest debt. This means the average family in bankruptcy with a median income of just over $17,500, and $28,955 in credit card and other short-term high interest debt.

There are over a billion credit cards in circulation—a dozen credit cards for every household in the country. Three-quarters of all households have at least one credit card. Credit debt has doubled between 1993 and 1997 to $422 billion from just over $200 billion.

A constituent from Lakewood, California describes the situation aptly: ''What really bugs me about this is that credit card companies send out these solicitations for their plastic cards and then when they get burned, they start crying foul. They want all kinds of laws passed to protect them from taking hits when it's their own practices that caused the problem.''

This legislation has taken some steps to address the problem of consumer credit, but more needs to be done.

One of the major reasons that I am supporting the bill is that it includes my amendment to require the Federal Reserve Board to investigate the practice of issuing credit cards indiscriminately, without taking steps to ensure that consumers are capable of repaying their debt, or in a manner that encourages consumers to accumulate additional debt.

The amendment allows the Federal Reserve Board to issue regulations that would require additional disclosures to consumers, and to take any other actions, consistent with its statutory authority, that the Board finds necessary to ensure responsible industry-wide practices and to prevent resulting consumer debt and insolvency.

In addition, I am pleased that the bill requires credit card companies to warn consumers about interest costs, and provide a toll-free phone where they can find out how long it would take to

eliminate a balance when just paying the minimum balance each month. Credit card companies also are required to better explain teaser rates and late fees in their solicitations.

The Senate also has made important improvements to this bill, both in the Judiciary Committee and on the floor. In my home state of California, for example, we have suffered from the abusive practices of bankruptcy mills including price gouging of debtors, incompetent service, and fraud. The bill includes an amendment to curb this abusive practice.

However, I remain very concerned about the minimum wage and tax amendments attached to this bill. Let me first say that I am strong supporter of raising the minimum wager. In the four years since Congress last past a minimum wage increase, the U.S. economy has continued to surge at an unprecedented rate.

Nine million new jobs have been added to the economy. More than a million of those are in the retail sector. Unemployment is down and the number of jobs for women, African-Americans, Hispanic Americans, and teenagers has grown. Clearly the increase in the minimum wage has helped working families and it is time to do so again.

The problem with the minimum wage increase in this bill is that it is spread out over too long a period of time. The amendment would raise the minimum wage by $1 in three steps of 35 cents, 35 cents, and 30 cents.

California's minimum wage is $5.75. Under this proposal, working families there would not benefit at all in the first year, receive only a 10 cent wage increase in the second year, and would not feel the full increase until 2003. That is simply unacceptable.

The time to raise the minimum wage is not when the economy is ailing. It's when the economy is flush and that time is now.

Congress should raise the minimum by $1 over two years as proposed by Democrats and we should do it now.

The bill also contains a $77 billion tax package whose benefits are skewed toward upper-income taxpayers. Specifically, the package has health insurance and long-term care provisions which would disproportionately benefit higher income taxpayers. I am also concerned about the fairness of the package's pension provision which would principally benefit highly-compensated employees.

In summary, I think there is a lot of good in the bankruptcy bill, and I intend to vote for it because it can still yield a worthwhile final product. However, extensive improvements are still needed in conference. The Conference negotiations must resolve the minimum wage and tax problems, and other deficiencies is the bill.

I need to work with my Senate colleagues to implement these needed changes.

Mr. KERRY. Mr. President, today we will vote overwhelmingly in support of a measure to dramatically reform the bankruptcy system. I join my colleagues in support of this bill, because I believe it is time we repair the bankruptcy system and I believe that this bill should progress to conference. However, the bill we support today is seriously flawed. It is my hope that some of the bill's more serious problems will be addressed in conference.

The Bankruptcy Reform Act fails to provide disclosures which would tell consumers how long it would take to pay off their balance at the minimum rate and what their total costs in interest and principle would be. Without this simple provision, American consumers will not receive the kind of specific information that will encourage them to pay their balance off more quickly, and avoid falling into debt in the first place.

I am also concerned that this bill fails to protect women and children who are entitled to child support and alimony. The bill increases the amount of debt for which debtors will remain liable through the creation of new types of nondischargeable debts to credit card companies and by permitting coercive ''reaffirmation'' agreements. With more competition for limited debtor resources, the bill fails to insure that parents and children will prevail over credit card companies and banks.

This bill includes an arbitrary and inflexible means test to determine which debtors must file Chapter 7 bankruptcy instead of Chapter 13. It is based on IRS standards not drafted for bankruptcy purposes that do not take into account individual family needs for expenses like transportation, food and rent. If we are going to shift individuals from Chapter 7 to Chapter 13 bankruptcies, we must ensure that we are taking into account individual needs and do not inadvertently harm those who need bankruptcy protections the most.

The bill also contains a number of nongermane provisions that concern me. The methamphetamine amendment increases the sentences for powder cocaine, thereby causing further overcrowding in prisons and increasing the representation of young minority males in prisons. I am also opposed to another provision that authorizes the use of public funds to pay for private school tuition for students who were injured by violent criminal offenses on public school grounds.

Despite its flaws, which I sincerely hope will be addressed in conference, the bill has a number of provisions I support, I take this opportunity to thank the managers of this bill, Senators GRASSLEY, TORRICELLI, and Ranking Member LEAHY for their consideration and assistance in accepting three amendments that I believe are important to fishermen in Massachusetts and small businesses across America.

First, I believe that the small business provisions originally in this bill establish too short a time for small businesses that must resort to bankruptcy. These provisions are counter to this country's long held policy of fostering small business creation and expansion. The amendment to the bill which was accepted will increase the time for small businesses to develop a reorganization plan to 300 days. This will allow small businesses to continue to have adequate time to develop a reorganization plan during bankruptcy proceedings. The amendment will also allow bankruptcy judges more discretion to develop an appropriate time frame for small business reorganization.

I thank Senator COLLINS and her staff for their fine work in developing an amendment which was accepted to make Chapter 12 of the Bankruptcy Code, which now applies to family farmers, applicable for fishermen. I was proud to be the lead Democratic cosponsor of this amendment that will make bankruptcy a more effective tool to help fishermen reorganize effectively and allow them to keep fishing while they do so.

The final amendment which was accepted allows the expansion of the credit committee membership under Chapter 11 bankruptcies to include a small business when it is determined that the small business' claims are disproportionally large to its gross revenues. This will ensure better access to information for those small businesses not included in the committee by allowing the committee to be open for comment and subject to additional reports or disclosures.

It is my hope that each of these amendments will be included in the Conference Report for the Bankruptcy Reform Act of 1999. I look forward to working with the Managers of the bill during Conference on these and other issues.

Mr. HATCH. Mr. President, S. 625, the Consumer Bankruptcy Reform Act, is one of the most important legislative efforts to reform the bankruptcy laws in decades.

I want to thank a few of the people who have worked on this bill. Let me first acknowledge the Majority Leader, who has worked very hard to keep this bill moving forward. Given the demanding Senate schedule, it would have been easier for him to have refused to take up the bill, but because of his dedication to the important reforms in this bill, we now have legislation that makes enormous strides in eliminating abuse in the bankruptcy system. I am also grateful to the assistant majority leader, Senator NICKLES, along with Senators DASCHLE and REID for their efforts in working with us to move the legislation forward.

Let me also acknowledge the Ranking Member of the Senate Judiciary Committee, Senator LEAHY, who has worked tirelessly to reach agreement on many of the bill's provisions, and who ably managed the bill for his side of the aisle. I also want to commend

my colleagues, Senators GRASSLEY and TORRICELLI, the Chairman and ranking minority member of the Subcommittee on Administrative Oversight and the Courts, respectively, for their tremendous efforts in crafting this much needed legislation. I particularly appreciate the dedication they have shown in making the passage of this bill an inclusive and bipartisan process.

Also, let me express my thanks to Senator SESSIONS who has shown unwavering dedication to accomplishing the important reforms in this bill, to Senator BIDEN for his efforts over the past two years in helping see sensible reform through the Senate, and to the many other members of the Senate for their hard work and cooperation.

At the Committee staff level, let me acknowledge a few people who have worked very hard on this bill. Kolan Davis and John McMickle of the Administrative Oversight and the Courts Subcommittee staff, along with Ed Haden, Kristi Lee and Sean Costello of the Youth Violence Subcommittee staff deserve praise for their impressive efforts on this legislation. In addition, Judiciary Committee Counsels Makan Delrahim, who was the lead counsel on this bill, Rene Augustine, and Kyle Sampson, as well as staff assistant Karen Wright, are to be commended for their hard work on this important bill. Thanks as well should be given to the Judiciary Committee's Chief Counsel and Staff Director, Manus Cooney, one of the most able and hard-working Chief Counsels the Committee has had.

On Senator LEAHY's Committee staff, I want to acknowledge Minority Chief Counsel Bruce Cohen, along with counsel Ed Pagano for their efforts. In addition, I want to recognize the tireless efforts of Eric Shuffler and Jennifer Leach of Senator TORRICELLI's staff, as well as the hard work of Jim Greene of Senator BIDEN's staff, the Youth Violence Subcommittee's Minority Chief Counsel Sheryl Walter, as well as Ben Lawsky of Senator SCHUMER's staff.

I also want to commend Jim Hecht of the majority leader's staff, Stewart Verdery, Eric Ueland, and Matt Kirk of the assistant majority leader's staff, Jonathan Adelstein of Senator DASCHLE's staff, and Eddie Ayoob and Peter Arapis of the Minority Whip's staff for their efforts on this legislation.

The compelling need for this reform is underscored by the dramatic rise we have seen over the past several years in bankruptcy filings. The Bankruptcy Code was liberalized back in 1978, and since that time, consumer bankruptcy filings have risen at an unprecedented rate.

Mr. President, the bankruptcy system was intended to provide a ''fresh start'' for those who truly need it. We need to preserve the bankruptcy system within limits to allow individuals to emerge from severe financial hardship. What we do not need is to preserve the elements of the system that allow it to be abused—that allow some debtors to use bankruptcy as a financial planning tool rather than as a last resort. I firmly believe that by allowing people who can repay their debts to avoid their financial obligations, we are doing a disservice to the honest and hardworking people in this country who end up paying for it.

Mr. President, again I would like to applaud the bipartisan efforts of my colleagues who have made S. 625 a broadly-supported bill. The impact of this important legislation not only will be to curb the rampant number of frivolous bankruptcy filings, but also will be to give a boost to our economy.

The PRESIDING OFFICER. The clerk will report the House bill.

The bill clerk read as follows:

A bill (H.R. 833) to amend title 11 of the U.S. Code, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Without objection, all after the enacting clause of H.R. 833 is stricken and the text of S. 625, as amended, is inserted in lieu thereof.

The question is on the third reading of the bill.

The bill (H.R. 833), as amended, was ordered to a third reading and was read the third time.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 83, nays 14, as follows:—

[Rollcall Vote No. 5 Leg.]

YEAS—83

Abraham	DeWine	Kohl
Akaka	Domenici	Kyl
Allard	Dorgan	Landrieu
Ashcroft	Durbin	Leahy
Baucus	Edwards	Levin
Bayh	Enzi	Lieberman
Bennett	Feinstein	Lincoln
Biden	Frist	Lott
Bingaman	Gorton	Lugar
Bond	Gramm	Mack
Breaux	Grams	McConnell
Bryan	Grassley	Mikulski
Bunning	Gregg	Murkowski
Byrd	Hagel	Murray
Campbell	Hatch	Nickles
Chafee, Lincoln	Helms	Reid
Cleland	Hollings	Robb
Cochran	Hutchinson	Roberts
Collins	Inhofe	Rockefeller
Conrad	Inouye	Roth
Coverdell	Jeffords	Santorum
Craig	Johnson	Sessions
Crapo	Kerrey	Shelby
Daschle	Kerry	Smith (NH)
Smith (OR)	Thomas	Voinovich
Snowe	Thompson	Warner
Specter	Thurmond	Wyden
Stevens	Torricelli	

NAYS—14

Boxer	Harkin	Reed
Brownback	Hutchison	Sarbanes
Dodd	Kennedy	Schumer
Feingold	Lautenberg	Wellstone
Graham	Moynihan	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Burns McCain

The bill (H.R. 833), as amended, was passed.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House. S. 625 is returned to the calendar.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senate has taken an important step toward real bankruptcy reform on a bipartisan basis. None of this would have been possible without the hard work and cooperation of the ranking member on the subcommittee, Senator TORRICELLI. We introduced the bill together.

We have a good bill that will restore personal responsibility and crack down on abuses of debt collectors and provide key information to credit card customers about the problems of minimum payment.

I believe we go into conference in a strong position. I think our bill in the Senate is better than the House companion. We will have a spirited conference, I believe, but this year will be easier than last year since the bills are much closer.

In any event, the Senate has done a good job. I thank Senators HATCH, SESSIONS, REID, TORRICELLI, BIDEN, and LEAHY for the strong support they showed for reform.

I also thank Rene Augustine and Makan Delrahim of Senator HATCH's staff; Jennifer Leach and Eric Shuffler of Senator TORRICELLI's staff; Jim Greene of Senator BIDEN's staff; Eddie Ayoob of Senator REID's staff; and Kolan Davis and John McMickle of my own staff for their hard work on this bill.

I also thank Ed Haden and Sean Costello of Senator SESSIONS' staff.

Of course, this bill would not be here if not for Senator REID working with us on the floor and Senators HATCH and LEAHY helping steer this very difficult bill through the Senate as they helped get it out of the Senate Judiciary Committee. Of course, in this regard, I also thank the people who supported our legislation.

Most important, if anybody had asked me when we adjourned last year if we could have passed the bill this early this year, if at all, I would have

been very pessimistic about it. But because of the cooperation we have had on the other side of the aisle, it was possible. Once again, in a very generic sense, I thank all who made this a bipartisan effort and made it possible to accomplish this goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Iowa for his kind remarks. He has persevered in this effort. He and I talked about this last fall when we were about ready to recess. We both committed ourselves to the fact that if this came back up this year, we would try to make it work. We told our respective leaders, Senator LOTT and Senator DASCHLE, that we would continue to work whittling down amendments. We were able to dispose of, I believe, well over 300 amendments.

The distinguished Senator from New Jersey, Mr. TORRICELLI, and the distinguished Senator from Utah, Mr. HATCH, worked so hard on this. Lesser people might have given up. They did not. They continued on.

The chairman, Senator HATCH, returned to his important leadership responsibilities without missing a step. I have been glad to work with him on this. We culminated our work on initial Senate passage of this bankruptcy act. Now we can go to conference.

Senators TORRICELLI and GRASSLEY will have their work cut out for them, as well as the rest of us, in trying to work that out. We will not have the help of the distinguished Senator from Nevada, Mr. REID, in removing a lot of amendments for us as he did on the floor. He has been tremendous in working that out.

On this side of the aisle, he worked to protect the rights of Democratic Senators and to improve the bill, and he has worked with his counterparts on the other side of the aisle in our joint effort to get amendments off this bill.

As the Senator from Iowa and I discussed earlier, we both have been here long enough to know we did have an enormous number of amendments to a bill, but we also know many are called but few are chosen.

So we will work together with Chairman HATCH, Senator GRASSLEY, Senator TORRICELLI, the House conferees, and the Clinton administration on a conference report that I think will be well worthwhile.

I hope we will not make the mistake of the past Congress where we came out of conference with something that never went anywhere. We have demonstrated in the Senate now twice, in lopsided votes, that we can pass a bankruptcy reform act. I hope we will come out of the conference with something that we can pass.

Lastly, I know a number of staff members, all of whom deserve praise, have been mentioned on this floor, but it is often said Senators are usually only constitutional necessities to the staff who really do the work around here. In that regard, Bruce Cohen and Ed Pagano of the Senate Judiciary Committee staff have worked long hours, many weekends, and late nights to get us this far, and they deserve a great deal of credit.

I see my good friend from New Jersey, the ranking member of the subcommittee, who told us it would be possible to get a bill through here back when many thought it would not be possible. He was right. He worked very hard. He deserves a great deal of credit.

I yield the floor to him.

Mr. TORRICELLI. I thank Senator LEAHY for his very kind comments and leadership in bringing this legislation to the floor, as well as, certainly, Senator GRASSLEY, who began this effort so long ago and worked so very hard. So many Senators have played an important role that I think it bears some analysis of how we came to this point. And there are some provisions of the bill that should be mentioned before we go to conference in order to set our clear agenda.

I know there are those from the outset who doubted whether, indeed, real reform of bankruptcy law could be achieved in this Congress. There was some reason to be skeptical because there were some conflicting provisions. Some of us had some very real needs that had to be met before the beginning legislation could ever be enacted.

The PRESIDING OFFICER (Mr. HUTCHINSON). If the Senator would suspend, there is a previous order. It will take unanimous consent for the Senator to continue.

Mr. TORRICELLI. I ask unanimous consent that the order be postponed for 10 minutes.

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

Mr. TORRICELLI. Most important of these objectives, in my mind, was dealing with the need for some consumer credit protection because, indeed, while there may be abuses in bankruptcy by debtors, to be certain, there are clearly problems in the credit industry.

I believe several important amendments have achieved this goal. Most importantly, in my mind, was the adoption of the Grassley-Torricelli disclosure amendment. Other important amendments were additions by Senators SCHUMER and SARBANES that will together provide real consumer protection.

All three amendments are based on the belief that if consumers have knowledge, they will make rational choices. Simply providing information will avoid many credit problems from which the American people are currently suffering. These include—if you look at the Torricelli-Grassley, Schumer, and Sarbanes amendments—a combination of disclosing prominently on credit documents: The effects of only making minimum payments on your account every month; second, when late fees will be imposed; and, third, the date on which introductory or teaser rates will expire and what the permanent rate will be upon that expiration.

Additionally, the Grassley-Torricelli amendment includes a provision authored by Senator JACK REED prohibiting the canceling of an account because the consumer pays the balance in full every month. That was a growing problem where people with good credit and good bill-paying habits were being penalized unnecessarily. That provision is now in the bill.

For all of these good additions that have made this better legislation, there are some problems which I hope and trust can be resolved in conference so that this can genuinely be bipartisan legislation, broadly accepted, and signed by the President.

The principal obstacle between what we want to achieve and that reality is obviously the minimum wage provisions in this legislation.

Mr. President, 12 million Americans continue to earn the minimum wage. Although they work all day, every day, throughout the year, they are in a daily struggle simply to survive. A mother of two working at the minimum wage earns only $10,712 per year, 22 percent below the poverty line, a wage at which it is impossible to provide housing and food and clothing for a child, no less two children—or even a person, no less a family. It is not a minimum wage; it is a poverty wage.

In the last 15 years, inflation rose by 86 percent, but the minimum wage rose by only 37 percent. The fact remains that the United States is allowing a standard of living by working people below what those who stood in this institution only 15, 20, and 25 years ago were permitting by law.

We in America are allowing the establishment of a near-permanent underclass of working people doomed to poverty and children who do not have a chance of breaking out of these circumstances, who are likely to enter life malnourished, poorly clothed, inadequately housed, knowing only poverty.

We need to reach the same judgment that our grandparents and our parents have reached for 70 years: A working, fair minimum wage.

With the proposed new minimum wage, a full-time worker will have an annual income of $12,700, an increase of $2,000 a year. The problem with our bill is that this change is brought over the course of 3 years rather than 2 years, as many of us have proposed.

If it is the right thing to do, upon which most Senators seem to agree, it is the right thing to do now. Leaving millions of American children in poverty for this extra time makes no sense, and it is indefensible.

Indeed, during that extra time it denies $1,200 to families who are struggling trying to work their way out of poverty.

I can think of no better addition to legislation dealing with debts and the struggling realities of American economic life in this reform of bankruptcy

legislation than including a real minimum wage.

It is obviously my hope that when the bill returns from conference we will return to a 2-year increase in the minimum wage rather than the 3-year provisions in this legislation.

The second area of concern—for all that we have achieved in this legislation—is the creation of a new school voucher program which was contained in a Republican antidrug amendment.

I want to make clear that I voted against this amendment last fall. I did so not because of objections to the underlying amphetamine prevention legislation, which I voted for in the Judiciary Committee, but to the voucher program.

When we considered this provision in the Judiciary Committee, it did not have this voucher provision. It actually was dealing with narcotics problems in schools with younger people. It was a good provision. It has now been changed on the floor to include this voucher program. It is a simple diversion of desperately needed public moneys in the public schools, which can only make the problem worse. Money that would go to children at risk to deal with many problems, including narcotics problems, would now be removed from the schools. This provision does not make sense. It should be removed.

I believe if these objections are dealt with, we can return to this floor with a conference committee report of which we can all be proud.

For all the divisions we might have faced when this legislation began, I think we all now understand there is a problem with bankruptcy abuse in the United States. In 1998, 1.4 million Americans sought bankruptcy protection. Something is wrong. There either are not adequate credit protections to ensure people under the circumstances when they borrow money, or the law does not properly deal with their filings for bankruptcy, or both and other factors. In my judgment, it is all of these things.

Currently, 70 percent of bankruptcy petitions are filed in chapter 7, which provides relief from most unsecured debt. Just 30 percent of petitions were filed under chapter 13, which requires a repayment of debt.

More than anything else, in addition to consumer protection, we will assure that people who can pay back part of these debts will do so. That is not simply a benefit to the financial industry; it is also a benefit to every mom-and-pop store, every small business in America that is being abused by these unnecessary filings for bankruptcy. Indeed, it is estimated by the Department of Justice that 182,000 people every year can afford to pay back some of the debts they are now escaping by inappropriate filings. This means $4 billion to creditors, financial institutions, to be sure, but also many small businesses that cannot afford losing these funds.

I conclude, once again, by thanking Senator GRASSLEY for his extraordinary leadership, Senator LEAHY for his patience through this process, Senator HATCH in chairing our committee and bringing us to this point, and the very great contributions made by Senators BIDEN, REID, SCHUMER, and Senator DURBIN who worked on this legislation so tirelessly in the last Congress.

This is good legislation. We can be proud of it. With modest adjustments, we can, indeed, make it something that both parties in both Chambers can bring to the President for his signature.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I understand we are about to go into executive session for the consideration of the nomination of Alan Greenspan. I wish to speak on another subject, so I ask unanimous consent that the order be set aside and I be permitted to speak for up to 10 minutes as in morning business.

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

COSTS OF WTO MINISTERIAL

Mr. GORTON. Mr. President, earlier this afternoon the distinguished Senator from Vermont, Mr. LEAHY, welcomed to the chair in which the Acting President now sits the Vice President of the United States in his capacity as President of the Senate. It was out of order for me to speak at that point, and I regret the fact that I was unable to do so because my message is to the Vice President of the United States.

Leaving this place, he is now on his way to Seattle, my home State, in pursuance of the Democratic nomination for the Presidency. On a number of occasions during the course of the last year when the Vice President has graced us with his presence, I have asked on this floor and elsewhere that he address some of the controversial and burning issues in the Pacific Northwest, usually without getting a particularly significant response.

I don't intend to do that today. I welcome the Vice President to Seattle, and I am going to ask him for his help and for a favor to the people of that city and the region.

Early last year, the Clinton administration picked Seattle out of 40 city applicants to host a conference by the World Trade Organization for an extended period of time. Careful preparations for that meeting were made by the administration, by State officials, by officials in the city of Seattle and in the surrounding area, and by private organizations that desired to take part in the WTO meetings.

We, as is customary when a major international conference goes to an American city, recognized the extra costs that would accrue to Seattle and the region by directing the State Department to reimburse Seattle and surrounding communities by upwards of $5 million for the extra costs of law enforcement that were inevitably to be a part of that WTO conference. Senator MURRAY, my colleague, and I joined in strongly supporting that proposal, and it was accepted, not only by the Senate but by the Congress, memorialized in the Commerce-State-Justice appropriations bill.

As we all know now, to our regret, the preparations for that WTO meeting were inadequate to meet the deluge of demonstrators who descended on Seattle, some of them quite violent in nature. While in my view our law enforcement officers performed in exemplary fashion under extremely difficult circumstances, neither the political preparation for that meeting on the part of their superiors, the disposition of the law enforcement officers, nor their leadership was up to the task. We ended up with a very regrettable and probably disastrous experience in the city with security for the organization, added to, very significantly, for the future of our trade relations by what I consider to be the utterly inappropriate performance of the President of the United States in undercutting his own negotiators.

Nevertheless, the net result was approximately a cost of $12 million to law enforcement over and above what would normally have been the circumstances. Not only does that exceed by a margin of more than 2 to 1 the $5 million that we directed be added as assistance for those efforts, but the State Department of the United States of America has flatly refused to reimburse Seattle or any of the other communities in the area by so much as $1.

I may say, the State Department seems quite happy to reimburse the costs of all of the Members of both Houses of Congress who went to Seattle for that conference, but a direction from this Congress, a direction from this Senate, that the Seattle area deserved a $5 million contribution to these law enforcement problems has, to this point, been utterly ignored by the State Department. Seattle and other local officials have been spurned in all of their efforts to get that assistance by what I consider to be weak and inadequate grounds.

Mr. President, I have come to the point. Yesterday I wrote a letter to the Vice President of the United States that I ask unanimous consent be printed in the RECORD in full at the end of my remarks.

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

(See Exhibit 1.)

Mr. GORTON. I asked in the letter that the Vice President, in his exalted position in this administration, do his very best to see to it that the State Department ends this arbitrary action and promptly reimburses the region with that entire $5 million figure, to be distributed as is most just among the various agencies that incurred those