judge disregarded the use clause and allowed a lease sale to go through to a non-conforming user. However, in *In re Trak Auto Corp.*, 367 F.3d 237 (4th Cir. 2004), an appellate court held that a use clause must be strictly enforced under Section 365(b)(3) on sale of the lease, notwithstanding Section 365(f). This legislation provides the necessary clarity by amending Section 365(f)(1) to help make clear it operates subject to all provisions of Section 365(b).

I note that Section 365(d)(4) of the Bankruptcy Code applies to cases under any chapter of Title 11. Language to that effect in the current Code's Section 365(d)(4) is deleted because it is repetitive of Sections 103(a) and 901 of the Code, which already make clear that provisions like Section 365(d)(4) apply to all cases under Title 11.

This bill creates new legal protections for a large class of retirement savings in bankruptcy. This measure has widespread support from a long list of groups, ranging from the American Association of Retired Persons, to the Small Business Council of America and the National Council on Teacher Retirement.

Let me take this opportunity to point out that the assets of some pension plans already are protected from bankruptcy proceedings. The United States Supreme Court has ruled in Patterson v. Shumate, reported at 504 U.S. 753 (1992), that assets of pension plans which have, and are required by law to have, anti-alienation provisions, are excluded from bankruptcy estates.

Let me be absolutely clear that this provision is not intended in any way to diminish the protections offered under existing law and under the United States Supreme Court's decision in Patterson v. Shumate, but rather, is intended to provide protection to other retirement plans and accounts not currently protected.

Mr. President, this has been a battle, there is no question about it, like all hotly contested issues are. But I think virtually everybody has contributed, and we have had some tough times on the floor. We have had even some bad feelings from time to time. But we have been at this for 8 solid, difficult years. It is unfortunate we could not work out more amendments, also, but we couldn't and still have this bill pass, hopefully for the last time. We worked in good faith to try to do that.

For those who feel they have not been treated as fairly as I would certainly have wanted to treat them or I feel I have treated them and others as well have treated them, we feel bad about that and hope they will forgive us for not being able to make some of the changes that perhaps we would have made had this been the first year of this bill and we didn't have the difficulty of meeting the suggestions of our friends over in the other body.

We think they have done a terrific job. The people in the House of Representatives are tremendous leaders, from Chairman SENSENBRENNER right on through the whole Judiciary Committee and, of course, the leadership over in the House as well and others who are not on the Judiciary Committee but are concerned about this very important bill. They work closely with us. It is difficult for them and it is difficult for us, but that is the way these two bodies ought to work together, and this bill is a perfect illustration of what can happen if good people can get together, compromise on some of these issues that can be compromised, and yet stand firmly so we can pass legislation like this that will benefit the whole country.

In my final remarks, let me recognize the efforts of Ed Pagano and Bruce Cohen of Senator LEAHY's office and Jim Flug and Jeff Teitz of Senator KENNEDY's office for all the hard work they have done over the years on this issue as well. It is a pleasure to work with staff on the Judiciary Committee. They are bright. They are articulate. They are brilliant, as a matter of fact. That is what you want in Judiciary Committee staffers. I wish those on the minority side would not be nearly as tough as they are, but I respect them for being that way.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. (Mr. VITTER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—99

Akaka	Burns	Corzine
Alexander	Burr	Craig
Allard	Byrd	Crapo
Allen	Cantwell	Dayton
Baucus	Carper	DeMint
Bayh	Chafee	DeWine
Bennett	Chambliss	Dodd
Biden	Coburn	Dole
Bingaman	Cochran	Domenici
Bond	Coleman	Dorgan
Boxer	Collins	Durbin
Brownback	Conrad	Ensign
Bunning	Cornyn	Enzi
Feingold	Lautenberg	Rockefeller
Feinstein	Leahy	Salazar
Frist	Levin	Santorum
Graham	Lieberman	Sarbanes
Grassley	Lincoln	Schumer
Gregg	Lott	Sessions
Hagel	Lugar	Shelby
Harkin	Martinez	Smith
Hatch	McCain	Snowe
Hutchison	McConnell	Specter
Inhofe	Mikulski	Stabenow
Inouye	Murkowski	Stevens
Isakson	Murray	Sununu
Jeffords	Nelson (FL)	Talent
Johnson	Nelson (NE)	Thomas
Kennedy	Obama	Thune
Kerry	Pryor	Vitter
Kohl	Reed	Voinovich
Kyl	Reid	Warner
Landrieu	Roberts	Wyden

NOT VOTING—1

Clinton

The bill (S. 250), as amended, was passed.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

AMENDMENT NO. 90

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, on the Feingold amendment No. 90.

Mr. FRIST. Mr. President, for the information of my colleagues, in consultation with the Democratic leader, we would like to have all of the remaining votes be 10-minute votes. We are going to be enforcing it strictly, so we have a reason to keep moving along. We ask that everybody, once we start voting shortly, stay in the Chamber and continue to vote. We will have 10-minute votes for the remainder of the evening.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, if we have a brief quorum call, I believe we may be able to eliminate the need for some of the votes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Mr. FEINGOLD. Mr. President, I appreciate the fact that we have had some opportunity to make a few modest modifications at the end of this process. Obviously, I hoped for more, but I do thank the Senator from Utah, Mr. HATCH, the Senator from Alabama, Mr. SESSIONS, the Senator from Iowa, Mr. GRASSLEY, and the Senator from Pennsylvania, Senator SPECTER, who are working on a number of changes and accepting a couple of amendments so we can move this process through. The result will be that the next five votes on my amendments will not be necessary, if this agreement is made. So I hope that causes the unanimous consent agreement to go through.

AMENDMENTS NOS. 90, 93, 95, AND 96 WITHDRAWN

AMENDMENT NO. 92, AS MODIFIED

AMENDMENT NO. 87, AS MODIFIED

I ask unanimous consent that my amendments No. 90, No. 93, No. 95, and No. 96 be withdrawn; that my amendment No. 92, as modified and as at the desk, be adopted; and that a modification of my amendment No. 87 which was agreed to last night be accepted as well.

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

The amendment (No. 92) as modified, was agreed to, as follows:

Credit Counseling Amendment:

(1) On page 34, after line 25, insert—

''(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and ''disability'' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1)'';

(2) On page 42, line 15, strike ''and''; and

(3) On page 43, between lines 3 and 4, insert the following:

''(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.''

(4) On page 35, line 12, insert ''who is a person described in section 109(h)(4) or'' after the word ''debtor.''

(5) On page 36, line 9, insert ''who is a person described in section 109(h)(4) or'' after the word ''debtor.''

The amendment (No. 87) as modified, was agreed to, as follows:

On page 445, strike lines 10 through 13, and insert the following:

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting ''101(19A),'' after ''101(18),'' each place it appears;

(2) by inserting ''522(f)(3) and (f)(4),'' after ''522(d),'' each place it appears;

(3) by inserting ''541(b), 547(c)(9),'' after ''523(a)(2)(C),'' each place it appears;

(4) in pagagraph (1), by striking ''and 1325(b)(3)'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''; and

(5) in paragraph (2), by striking ''and 1325(b)(3) of this title'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BIDEN. Mr. President, I checked with the leader on our side, and I hope it is all right with the Republican leader. I have no amendment relating to the bill. I would like to proceed as if in morning business until anyone has an opportunity to move on the bill, and I will cease and desist at that moment.

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

(The remarks of Mr. BIDEN are printed in today's RECORD under ''Morning Business.'')

(The remarks of Mr. BIDEN pertaining to the submission of S. Con. Res. 17 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER (Mr. THUNE). The Senator from Tennessee.

Mr. FRIST. Mr. President, for the information of our colleagues, we are about to have the last vote of the evening which is final passage of bankruptcy legislation. I thank all Members for their hard work today in the Chamber, as well as the Budget Committee and their efforts on the budget resolution. They made huge progress today. We will start on the budget Monday morning. We expect amendments during Monday's session. Therefore, we do expect the next vote to be Monday evening at 5:30.

Mr. BIDEN. Mr. President, several years ago, when we were considering this legislation, I spoke here on the Senate floor about some important provisions that I think have been overlooked in our discussions. In my remarks today I will repeat what I said back then, in March of 2001.

We have heard a lot in recent days about how this bill lacks compassion—specifically, that it will hurt women and children who depend on alimony and child support.

Critics claim that by making sure that more money is paid back to other creditors, this bill will make it harder for women and children to get what is coming to them.

I am particularly proud of my record of protecting women and children during my career in the Senate. That record includes the Violence Against Women Act to protect women threatened by domestic violence.

I am here again today to show that, contrary to a lot of the rhetoric that has been tossed around, this bill actually improves the situation of women and children who depend on child support. It specifically targets the problems they face under the current bankruptcy system into a virtual extension of the current national family support collection system.

There may be other aspects of this legislation that we can debate: the balance between creditors and debtors, between different kinds of creditors, or between different kinds of debtors. But on the question of child support and alimony, there should be no dispute.

Because this bill strengthens the collection of alimony. Period.

Over the many years we have discussed this bill, it has earned the support of the National Child Support Enforcement Association, which represents over 60.000 child support professionals.

It has earned the support of the National Association of Attorneys General, which has sent a letter of support personally signed by twenty-seven State attorneys general.

Over the years, the child support protections in this legislation were endorsed by the Attorney General of the State of Vermont.

The Attorney General of Minnesota endorsed them, too, along with the Attorneys General from Illinois, from Massachusetts, and from California, Montana, North Carolina, Michigan, Maryland, Iowa, Hawaii, and Washington.

The child support and alimony protections in S. 256 are so far superior to current law that the National District Attorneys Association, representing more than 7,000 local prosecutors, have endorsed them.

In addition to those national associations, those protections have earned the support of: the California Family Support Council, whose 2,500 enforcement professionals are responsible for carrying out the Federal child support program in California;

The Western Interstate Child Support Enforcement Council, composed of child support professionals from the private and public sectors west of the Mississippi River;

The California District Attorneys Association, consisting of elected district attorneys from each of every one of California's 58 counties and over 2,500 deputy district attorneys; and finally,

The Corporation Counsel of the City of New York. Yes, even New York City loves this bill.

Why has this legislation earned such overwhelming support from the professionals out in the field and in the trenches who, ever single day, seek and enforce child support orders?

One reason is the hard work of Phillip Strauss, who, speaking for the National Child Support and Enforcement Association, has represented the concerns of child support professionals in testimony before our committee over the years we have debated bankruptcy reform. From his personal experience with the problems women and children face under current bankruptcy law, he brought together his fellow enforcement officials to draft the provisions I am here to discuss.

As Mr. Strauss and his colleagues have told us, right now the treatment of child support and alimony in bankruptcy is a mess, and this bill fixes it.

When a deadbeat dad files for bankruptcy under the current system, what happens to mom and the kids?

Well, if the dad is actually making the payments, those payments stop. That's right, the payments stop cold. Mom then has to find a lawyer or a government advocate, take time off of work, and go to bankruptcy court to try to get those payments started

again. And when she goes to court, her claim may not be heard that day, so she'll have to return again and again . . . or if she's late, she'll miss her day in court.

What else happens under current law? When dad's bill collectors show up in bankruptcy court, mom has to fight with them over dad's assets. There's a good chance that mom not only needs her payments started again, but she is due past support—support payments dad never made last month, last year. She needs him to pay her back for all the payments he failed to make.

And in asserting her claim, she is not the ''Number 1'' collector in line. Under current law, she is Number 7. That's right—Not So Lucky Number 7. The current Code permits other bill collectors to beat her in the race to get at dad's assets. The current law handicaps her at the starting line. She is forced to wage a fight to make sure she and the kids receive their due.

And what happens after she fights it out with the bill collectors? Well, under the current system, she might be lucky and get every dollar due. But, she may only get a portion of what is due or she may not get one red cent.

That's not right. If a bankrupt household is a sinking ship, then women and children should be protected first. This is what the current law fails to do, but it is what this bill does: it puts women and children first.

S. 256 dictates that even if he files for bankruptcy, dad must continue making those support payments that mom needs to feed and clothe her children. Under this bill, women and children will continue to receive their support payments during bankruptcy, while everybody else, from the credit card bank to the department store, waits for the bankruptcy judge's final order and plan.

That alone would be a major improvement over current law. But that is just the beginning of the advances of this bill over current law.

This bill makes mom ''Number 1'' and places her ahead of all the bill collectors on her past-due claim. No other bill collector—not the credit card company, not the car loan company, not the student lenders—can jump ahead of a mother and her children. Every other bill collector must stand in line behind the family.

What is so great about the continuation of payments and making mom ''Number 1''? As a practical matter, she doesn't have to find room in her hectic schedule to make appearances in a federal bankruptcy court—an intimidating place for most people. She can go to work without interrupting her day. She can complete her errands and pick up her kids after school. Under the bill, she will be automatically first in line on her claims and she will continue to receive her payments during bankruptcy.

When we pass this bill, she does not have to work her way through the bankruptcy system. The system will work for her, not against her.

That's the beauty of this bill: It is self-executing. The provisions to be added to the Bankruptcy Code will function automatically. This is vital. Unrepresented women will not be harmed by the process, as they are under the current Code.

Today, under current law, these women have to get an attorney and go to court to assert their claims.

In addition, under this bill, family support will never be dischargeable. It must be paid in full. All of it.

This is important because, under the curren, domestic debts may not be paid in full or at all . . . believe it or not. Right now, a deadbeat father can file for bankruptcy and come out without paying one penny of support. While his slate is wiped clean, a mother and her children go without. When this bill passes and the President signs it, the law will hold the deadbeat dad's feet to the fire: he will pay, he will pay in full.

There are other important ways that this bill will remove real obstacles to justice that exist in current bankruptcy law.

This bill not only lifts the stay on support payments during bankruptcy, but it adds that, when a wife-beater files for bankruptcy, a domestic violence restraining order against him must remain in effect. It cannot be stayed. And the woman who needs a restraining order against him can still get one.

I have here an order from a family court in my home state of Delaware. A woman went to the court and requested a restraining order against her abuser, who had already filed for bankruptcy. Incredibly, the judge found, under the current Bankruptcy Code, that a proceeding for a domestic abuse restraining order is automatically stayed ''by operation of law.''

That's right. We have judges out there right now who look at today's Bankruptcy Code, and they find that filing for bankruptcy stops all proceedings. They find that we have failed to write an exception for proceedings like those for domestic violence. They find their hands are tied.

Then they send a woman in fear for her life off to a federal bankruptcy court to lift the Code's automatic stay by filing a special motion. Unbelievable.

If you think this is fair, if you prefer this state of affairs, then I guess you will vote against this bill. Personally, I am proud of this bill, and I wish that those who are fabricating wild claims about it would stop. If they have their way, the women and children in this country who depend on alimony and child support will be robbed of real protections. That would be a crime.

Under current law, more than just child support and—alimony are stopped in their tracks by the filing of bankruptcy. That automatic stay, as it is called, stops a lot of other proceedings that could provide real help to women and children.

This legislation changes that. It lifts the stay on a number of methods that family support officials use to go after deadbeat dads, who today can hide behind the bankruptcy system. Unlike current law, this bill would permit reporting the deadbeat's overdue support payments to a consumer reporting agency. Under current law, it would permit restrictions on a deadbeat dad's driving, professional, or recreational licenses. It would permit family support collection officials to intercept his tax refunds.

The legislation also clarifies the definition of support payments, ending conflicting bankruptcy decisions by different courts that today question what support payments actually are.

Most significantly, though, this bill prevents a father from completing bankruptcy unless he has paid all his support obligations due after he filed for bankruptcy.

Let's think about this. Under current law, a father filed for bankruptcy and can complete bankruptcy under a plan that relieves him of his past-due domestic obligations. Under the bill, however, this scenario will become obsolete. A father will never complete bankruptcy until he is paid up. He must pay.

Moreover, the bill protects mom during a bankruptcy plan. Once a father is under a bankruptcy plan and he fails to make his support payments, a mother can march to the bankruptcy court and ask the court to dismiss his plan. The court will call dad back in to explain himself. He doesn't want to make payments during his bankruptcy plan? Fine, he can be thrown out of bankruptcy, and find himself back at square one.

Some claim that this bill lacks compassion. Well, right now, women who want child support orders or who already have orders but fail to enforce them slip through the cracks. If we pass this bill, the Bankruptcy Code will empower women with the information they need.

Section 219 of the bill requires the U.S. Bankruptcy Trustee to notify a woman of her rights to use the services of her state child support enforcement agency and gives her the agency's address and phone number. Better yet, the Trustee likewise notifies the agency independently of the woman's claim. This is striking.

Women who need help will get the information they need, because the bankruptcy system is charged with reaching out to family support professionals—acting under federal family support collection law—and putting them at the service of the women and children who need them.

This last item needs stressing, Mr. President, because so much has been made about what will happen after someone who owes family support payments comes out of bankruptcy. The claim is that other ''more powerful'' creditors will push women and children aside and strip the dad bare before he can make payments to his family.

That makes for a moving story, Mr. President, but it is fiction, not fact.

This legislation requires the bankruptcy Trustee to notify both the woman and the family support collection professionals about the dad's release from bankruptcy, his last known address, the name and address of his employer, and a list naming all the bill collectors who will still be collecting from dad.

This section helps mothers both during and after bankruptcy.

The new notification process will help a mother and the support enforcement agencies keep track of a father, where he is working, and what other bills he is required to pay.

Because of this monitoring, which would be put in place by the bankruptcy system under this bill, mothers and collection agencies can more easily go to court and get that portion of a father's wages that now really belongs to them. Dad may complete his bankruptcy plan, but his obligations do not stop.

These new protections guarantee that family support claims of women and children,will always receive ''Number 1'' priority—during and after bankruptcy. The process for obtaining a portion of a father's wages—through a wage attachment—gives priority to domestic support orders over orders held by bill collectors, including credit card companies.

That money is taken out of his paycheck before he even sees it. He can't be forced by ''powerful creditors'' to choose between them and his alimony or child support. Those payments are automatic. Again, the picture of greedy bill collectors rushing to the front of the line makes for dramatic storytelling. But it is only that—storytelling.

The legislation builds on the existing Federal Child Support Enforcement Program, that exists to help women of all walks of life receive their support payments. By tying Federal dollars to federal standards, current law requires state and local support enforcement agencies to enforce national standards.

A couple of the requirements under Federal family support law are: first, that immediate wage withholding should be included in all child support orders; and second, that the withholding of child support obligations be given top priority over every other legal process under State law against the same wages.

Therefore, after bankruptcy, when a mother and the bill collectors walk into court to make claims against the father's wages, the mother is again ''Number 1'' in priority and those bill collectors fall in line behind her.

In response to some of my colleagues concerns—concerns that I would certainly share if I listened to some of the claims out there—I looked for ways to make the system even tighter.

I found out that the only way to do that was to require a wage attachment, whether the woman wanted one or not. Maybe she wants nothing to do with an abusive husband. Maybe she is afraid for him to know her address. We have to leave that decision up to her, but she will get all the help we can give to help her know her rights.

As I said, I looked for ways to make this bill stronger in support of women and children who depend on support payments, and I simply couldn't find any.

Even if a father does not earn wages, then support enforcement agencies have many tools to use to ensure that the mother and her children are paid. A support enforcement agency can intercept taxes and unemployment benefits, revoke driver's, professional and recreational licenses (like those used for fishing, hunting, and boating), deny passports, and institute criminal and contempt actions.

That is why, even compared to any imaginary ''powerful creditor'' you might be able to conjure up, mothers and children have real, tangible protections and resources at their disposal to bring a first priority claim against a father's wages after bankruptcy.

Finally, let me conclude where I began: with the enthusiasm for this legislation that we have heard from the folks in the trenches.

Here is what the National Association of Attorneys General has asserted: the bill ''improve[s] the treatment of domestic support obligations'' and when the current Code's ''obstacles are removed, as this legislation seeks to accomplish, we believe that our State and local support offices will continue to be able to collect these monies effectively, regardless of whether other lower-priority creditors remain.''

As I mentioned before, the Association's letter was personally signed by the State Attorneys General from twenty-seven States, including the—State Attorneys General from Vermont, Minnesota, Illinois, Massachusetts, California, North Carolina, Michigan, Montana, Maryland, Iowa, Hawaii, and Washington.

The National District Attorneys Association, with more than 7,000 local prosecutors in their membership, does ''not believe that after bankruptcy it would be more difficult to collect support simply because credit card debts are not discharged. To the contrary, support collectors have vastly more effective, and meaningful, collection remedies before a bankruptcy case is filed, or after the case is completed, than any other financial institution . . . It is under the current law, during bankruptcy, that support collectors have the greatest difficulty because they are in competition with all other creditors for bankruptcy estate assets and because their most effective collections remedies have been stayed . . . This legislation provides a major improvement to the problems facing child support creditors in bankruptcy proceedings.''

I support the reform that the enforcement professionals call for, from New York City to California, from Minnesota to Vermont, from Massachusetts to Michigan. I want to save women and children from having to fight their way through a broken bankruptcy system. I want to make the system work for them, not against them.

A vote against this bill is a vote in favor of the current broken system. A vote for this bill is a vote to protect family support payments in bankruptcy.

That is why I support this bill.

Mr. DORGAN. Mr. President, I know that the Senate is about to pass a bankruptcy reform bill, and that this bill will be signed into law. And it is with some regret that I say that I will not vote for it.

I do believe that there have been cases of abuse of our bankruptcy system, and that some reform is needed. Nobody likes to hear of wealthy people who walk away from their debts because they can game the system. That's not fair to financial institutions, and perhaps more importantly, it's not fair to Americans who pay their debts in full.

I voted for a bankruptcy reform bill twice in the past, most recently in 2001. That bill passed in the Senate with significant bipartisan consensus, and I had hoped that it would be signed into law. But the House of Representatives refused to compromise with the Senate, and ultimately the bill failed.

This time around, I would have liked to have reached another bipartisan consensus. However, the bipartisan spirit seems to have broken down.

My colleagues on the Democratic side offered a number of amendments that were reasonable, common-sense tweaks to the bill, to reflect changes in our country since the last time the bankruptcy bill was considered.

There have been hundreds of thousands of National Guard and reserve troops called up because of the conflicts in Afghanistan and Iraq. They have left behind their jobs, their businesses, and their families. When they find themselves in bankruptcy, why not allow them some consideration? My colleague from Illinois, Senator DURBIN, offered an amendment that would have done precisely that, but it was voted down on a largely partisan vote.

Or how about victims of identity theft? In the last few years, identity theft has become a plague on law-abiding citizens. My colleague from Florida, Senator NELSON, offered a most reasonable amendment, which simply said that if someone is forced into bankruptcy because of identity theft, he should receive some consideration. That amendment was also voted down along partisan lines.

Or how about Americans who suffered major medical problems and were driven into bankruptcy? A very recent Harvard Medical School study found that about half of all people that have been driven to bankruptcy have suffered a major medical problem. Many of these people have lost their homes. So Senator KENNEDY offered an amendment that would have allowed such

Americans to keep their home—not a mansion, mind you, but a modest home, while they try to get back on their feet. But this amendment also was shot down.

We have not heard good arguments for why these amendments should have failed. The majority party have really only had one argument: that they want to avoid displeasing the House of Representatives, and don't dare modify the Senate bill even with modest, reasonable amendments.

Well, I am just not going to support a bill that turns its back on service members and veterans, or on hard-working people that just happen to have had a medical crisis, and have been driven into bankruptcy not because they are gaming the system, but because of circumstances beyond their control.

One other point. This bankruptcy bill was supposed to be about preventing cheating in the bankruptcy system. Well, I offered an amendment, along with Senator DURBIN, that would have dealt with a different kind of cheating: the fraud, waste, and abuse that has been rampant in many of the reconstruction contracts in Iraq. My amendment said, let's appoint a bipartisan special committee of the Senate to investigate these abuses. But that amendment did not even get a vote.

In 1941, a Senator from Missouri by the name of Harry S Truman heard allegations of wasteful and fraudulent spending in the preparations for World War II. He thought this waste and fraud could undermine the war effort, so he drove around the country, visiting military bases. And when he came back, he called for the creation of a special committee. That committee, which came to be known as the Truman Committee, saved the U.S. government an estimated $15 billion—and that's in 1940s dollars.

That was a case of a Democrat calling for investigations of contracts handled by a Democratic Administration. But for Harry Truman, this wasn't about politics—it was about looking out for the U.S. taxpayer, and not squandering resources that were meant for the war effort.

We need a Truman Committee again, because the majority party is not calling for oversight hearings on these contracting abuses in Iraq. My amendment would have created a bipartisan special committee to do just that. But it did not even get a vote, because the majority party rested on a technicality in Senate rules to deny a vote.

Under these circumstances, I am, regretfully, not going to vote for the bankruptcy bill.

Ms. MIKULSKI. Mr. President, today I rise to oppose S. 256, the Bankruptcy Reform Bill. This bill is unfair to the little guy—to families who are struggling to overcome medical bills, unemployment, or divorce and find themselves forced to declare bankruptcy. Under the guise of reform it makes it tougher on families who have done the right thing. That's not what we should be doing in the United States Senate. Our job is to make sure we are protecting middle-class Americans and small businesses who are the lifeblood of our economy, not hurting them. While some of the reforms of the bill are good steps it goes too far to favor credit card companies and corporations over working families.

This bill creates such strict standards that many of our nation's most vulnerable families are treated unfairly when they are forced to file bankruptcy because of the loss of a job, the high cost of health care or a divorce. This bill does nothing to address the problems these individuals are having, the problems that have driven them to bankruptcy and it provides virtually no discretion for courts dealing with these bankruptcy claims.

I have supported bankruptcy reform legislation in the past—but it was not this bill and it was not this process. This bill was rushed through Committee with the promise that amendments would be considered on the floor, that there would be debate and an opportunity to improve the bill. Yet, none of the amendments were truly considered, most were opposed by Republicans marching in lock step to defeat every amendment to the existing bill. In short, there was no real opportunity to improve the bill. What came to the floor leaves the floor virtually unchanged and truly unfair to many of our citizens who are forced to file bankruptcy because of unforeseen circumstances like job loss, divorce or medical costs.

Half of all families filing for bankruptcy have faced illness or high medical costs. Medical costs, especially for seniors, are one of the fastest growing causes of bankruptcy. These are not folks who use their credit cards to buy fancy suits, designer wares or other luxury goods. They are paying for the basic necessities of their lives with their credit cards. They are putting their food, clothing and medical bills on the credit cards. Nearly 9 out of 10 people file bankruptcy because of health care problems, job loss or divorce. These individuals don't want to file bankruptcy—in fact, they have tried to avoid bankruptcy. That's why they pay those medical bills with credit cards when they simply can't afford any other way. Or they skip going to the doctor all together because they know have no means to pay. And what happens—they get sicker, incur greater costs for catastrophic care and that sends them spiraling further into debt and forcing many into bankruptcy.

We ought to be doing something to help those individuals—not creating a law that will make matters worse. The Senate should be on the side of those Americans who are facing hard times and hard decisions. We should be addressing the lack of health care and working to ensure that we are creating good, high paying jobs.

I am opposing this version of the Bankruptcy Reform Bill because it creates needless and unfair hoops for these individuals to jump through and the rigid means test puts those in real need of relief at a disadvantage. It imposes new burdens on families already overburdened by the debt they must shoulder. Certainly we all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury goods, new cars and the like, only to then declare bankruptcy, should be held accountable. Many of us can remember a mother or father who taught us about debt, taught us the dangers of getting into debt and to be responsible for paying all our debts back. But we need to be fair in how we calculate who can pay. And we need to make sure that the provisions are not so rigid that they allow courts no discretion to take into account the circumstances that lead to the bankruptcy.

The legislation that the Senate considers today is different from past versions that I have supported. There is obviously the removal of the Schumer amendment which held those who block access to abortion clinics accountable for the court judgments that they have incurred. But it also gives women, single parents, families and those living in poverty less opportunity to overcome their hardships and get a fresh start. This bill punishes people, assumes that all those filing for bankruptcy have purposefully created their debt problems, imposes a strict standard that does not take into account the circumstances surrounding the bankruptcy and the real means of individuals to pay their debt back. That's not fair, it's not right, and it makes life tougher on working families. I urge my colleagues to join me in standing up for women, children and working families by opposing this bill.

Mr. REED. Mr. President, today I share my concern over S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and urge my colleagues to vote against this flawed legislation. This legislation provides a misguided and uneven approach to combating bankruptcy abuse, especially because it leaves so many causes of bankruptcy unaddressed.

Most provisions in this bill were written years ago and do not target abuses which have recently gained public attention. When this bill was originally drafted, corporate fraud at Enron and elsewhere had not yet come to light. The executives at these corporations had not yet been caught enjoying huge personal gains at the expense of shareholders and employees only to later file for bankruptcy. This bill does not fully address these types of bankruptcy abuses, and unfortunately efforts to close these loopholes failed.

At the time this bill was drafted, companies were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. In fact, the number of senior citizens in bankruptcy tripled from 1992 to 2001,

representing the largest increase of any group. Today, nearly a million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation and their benefits reduced; this is a substantial increase from when the bill was drafted. I am disappointed that this body not only voted against the Feingold amendment that would have helped elderly Americans protect their houses, but also against the Rockefeller amendment to improve employees' claim for owed wages and benefits. The Rockefeller amendment would have also required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy.

The bill adds a means test, which supporters of the bill say will significantly reduce abuse. The nonpartisan American Bankruptcy Institute found that over 96 percent of families seeking to go into chapter 7 bankruptcy would be judged as unable to pay under the new means test. However, the means test would likely deter qualifying families from filing for bankruptcy due to the addition of regulatory requirements and legal costs.

I am not opposed to sensible bankruptcy law reform, but this is a reverse Robin Hood—squeeze the down-on-their-luck middle class and impoverished Americans and give the proceeds to the financial services industry. Contrary to the claims of creditors, many of these families simply cannot pay. About half of families going into bankruptcy have had their utilities or phone shut off, and 60 percent went without medical care. One in five families that are bankrupt because of medical bills went without food. Surveys have shown that many of them want to repay their bills but are unable to, and they must ultimately file for bankruptcy to stop the harassment of collection agents.

This bill does nothing to prevent bankruptcy by targeting its causes. We should work to ensure adequate worker compensation, lower the high cost of health care, improve financial education, and stem predatory lending.

Our middle class is increasingly squeezed. Median family income has been relatively stagnant, rising by only 12 percent in constant dollars from 1978 to 2003. This increase has not kept up with families' sharply increasing costs. Health care costs have risen by 327 percent in constant dollars from 1988 to 2004. The real cost of tuition at a four year public university increased by 646 percent from 1978 to 2003. Child care costs have risen by 35 percent more than inflation from 1986 to 2003.

With less disposable income, families are less able to make it through difficult financial times and can be devastated by a single unexpected event. It saddens me that many of my colleagues in the majority voted against Senator KENNEDY's amendment to raise the minimum wage for the first time in eight years. This measure could have meant the difference to countless Americans between being able to pay their bills and having to file for bankruptcy.

Indeed, according to a new Harvard Law School study, illness or high medical costs cause half of personal bankruptcies. Certainly this is sure to affect the 45 million uninsured Americans, up from 30 million in 1978. It also has a traumatic effect on those who do have health insurance, one-third of whom lost it while they were sick. Yet again, I believe it was a mistake for this body to have killed an amendment to offer protections to patients with high medical bills.

We also continue to see some banks cross the line into predatory lending practices. We must continue to find a balance between providing access to credit and capital and protecting individuals from predatory lending. Unfortunately, as many of my colleagues have pointed out, members of our Armed Forces have become a top target of these unsavory practices. Senator DURBIN's G.I. protection amendment would have extended protections to military members who have been forced into bankruptcy because of income loss connected to their service. It would also have protected them from predatory ''pay day'' loans. Unfortunately, this amendment was voted down.

For all of these reasons, I intend to vote against this flawed legislation, and I urge my colleagues to do the same.

Mr. LAUTENBERG. Mr. President, we are now into our second week of debate on this bill, but in fact, we have been talking about it for 8 years, since it was originally introduced.

During that time, personal bankruptcies in our Nation have surged, while the profits of credit card companies have soared.

We had an opportunity to pass a good bill that would have curbed real abuses of bankruptcy, while protecting consumers who fall on hard times because of a medical catastrophe, divorce or the loss of a job. Instead, the majority rejected dozens of amendments that would have protected the homes of senior citizens, and required credit card companies to level with consumers about how much they would really pay in interest and penalties.

Now we are left with a bill that punishes consumers and lines the pockets of the credit card companies, a bill that protects the mansions of multimillionaires who file for bankruptcy protection but makes it easier for landlords to evict tenants from their homes if they are forced into bankruptcy, and, a bill that makes no distinction between a family struck by catastrophic illness, and a spendthrift who maxes out his credit cards on a shopping spree.

I mentioned catastrophic illness because half of all bankruptcies today are the result of medical debts. Most families who are driven into bankruptcy by a medical problem probably think it can never happen to them because they have health insurance. But it can happen to anyone, and it does.

Three-fourths of the people who file for bankruptcy because of medical debts have health insurance when the medical problem begins.

But eventually their insurance runs out or certain treatments are not covered. And the next thing they know, they are facing financial ruin.

Bankruptcy also hits families that have been torn apart by divorce. On Sunday, the Washington Post published a front-page article about this bill.

The article described how a woman who was left alone by her husband to raise three children had fallen behind on her credit card payments. Even though she worked a second job and paid $2,000 a month to the credit card companies, her debt continued to pile up because of exorbitant late fees and interest rates. This woman was almost an indentured servant to her credit card companies, struggling to pay off a debt that could never be satisfied.

This is not an isolated incident. The trend in the credit card industry today was described by one expert as a ''fee feeding frenzy.''

Credit card companies collected almost $15 billion in penalty fees last year—nearly 10 times the $1.7 billion they collected in 1996.

Penalty fees have become so important to the bottom line that some banks refer to customers who pay their bills on time as ''deadbeats,'' because they cannot be hit with exorbitant penalties.

It has become commonplace for credit card companies to jack up the interest rates of customers who are slightly late with their payments—in some cases, by no more than one day.

Credit companies already charge late fees of up to $39 for every late payment. Piling a higher interest rate on top of that late fee is like double jeopardy, and that is not fair to consumers.

There are many reasons why a consumer might be a day or two late in making a credit card payment. Maybe a child got sick and had to see a doctor, and his mom was too busy taking him to the hospital to worry about a credit card payment. Maybe a car broke down, and it had to be fixed so a worker could get to their job. Maybe the mail was a little slow that week.

Whatever the reason, a consumer should not be unfairly and harshly punished for one late payment.

At the very least, credit card companies should give consumers fair warning before hiking their interest rates. If there is a problem, the consumer should have a chance to correct it before their rate can be increased.

But the credit card companies are not interested in fairness. In fact, they actually hope customers will be late with a payment so they can be hit with penalty fees.

To that end, they engage in ''bait and switch'' tactics to lure consumers with low rates, then automatically jack those rates up the first time a payment is a day late.

One example of this is the Capital One Platinum MasterCard.

Customers going to the Capital One Web site to apply for a credit card will find the following ad, which touts ''a great low rate''—an ''8.9 percent fixed APR.''

This ad is pretty prominent. As you can see, the type is large and easy to read, and there is a nice picture.

On an entirely separate Web page, buried in pages of fine print, Capital One discloses that:

All your APRs may increase to a default rate of up to 25.9% ANNUAL PERCENTAGE RATE if you default under this Card Agreement because you fail to make a payment to us when due, you exceed your credit line or your payment is returned for any reason. Default APRs will be effective . . . immediately.

In other words, despite advertising a ''fixed'' rate of 8.9 percent, Capital One can almost triple a customer's rate to a whopping 25.9 percent—just for sending one payment one day late.

The cost of this rate hike to a customer with a balance of $5,000 would be as much as $880 in interest payments over the following year. That is simply too harsh of a penalty for sending one payment one day late.

This is the dire situation in which many consumers find themselves. Even though they make payments every month, and don't charge any new purchases to their credit card, they fall deeper and deeper into debt. Eventually, seeing no other way out, some of these people declare bankruptcy.

Many States have passed laws to protect consumers from unscrupulous penalties and rate increases. Unfortunately, these laws cannot be enforced, as courts have ruled that the banks are bound by the laws of the States where they are located, not where their customers reside.

As a result, credit card companies have flocked to States with weak consumer protections, creating a ''race to the bottom.''

With this bill, we had an opportunity to put a stop to that, and end the unscrupulous gouging of consumers. By giving consumers a chance to correct problems before they were hit with higher interest rates, we could have prevented many bankruptcies. Unfortunately, we have squandered that opportunity.

This bill does nothing to address the roots of the bankruptcy problem in our country today. And it does nothing to help consumers. For that reason, I must vote against S. 256.

Mrs. MURRAY. Mr. President, today I voted against a bankruptcy bill that puts credit card companies and politics ahead of ordinary Americans. Rather than providing balanced reform, this bill punishes those who have fallen on hard times—particularly our military families and those who are struggling under the weight of soaring medical bills.

I have heard from residents across Washington State that the cost of medical care is forcing them into bankruptcy. In fact, a report last summer by the Working for Health Coalition found that half of Washington State bankruptcies were due to rising health care costs. Most of these families are working and more than half have health insurance, but the growing cost of health care is so overwhelming it pushes them into bankruptcy. A national study last month found that 61 percent of bankruptcy filers did not seek the medical care they needed. These families deserve help, but instead this bill punishes them for circumstances beyond their control.

This bill also fails to adequately protect our military families, particularly our Guard and Reserve members. These patriotic families have had to struggle with half their normal income during long—and often extended—deployments. Many have seen their businesses collapse at home while they have served overseas. I have met with Washington State Guard and Reserve families and have seen how they are struggling to meet the financial burdens of long deployments. They deserve a lifeline, not more paperwork, legal fees, and threats from collection agencies. The Senate had an opportunity to protect our soldiers through Senator DURBIN's amendment, but that was rejected for a Republican amendment that falls far short. Our military families deserve better.

If Republicans had been willing to make the bill less punitive toward ordinary Americans, they would have adopted a number of reasonable amendments in committee and on the Senate floor, but they refused. For example, Republicans blocked an amendment that would have protected workers and retirees if their company files for bankruptcy. Republicans also voted down amendments to ensure the elderly don't lose their homes and to discourage predatory lending. And they even failed to protect people who have had their identities stolen by criminals who then run up huge credit card bills. These are all examples of how Republicans are protecting corporate interests at the expense of vulnerable individuals.

This bankruptcy bill also stacks the deck against women and children. For example, this bill will make it harder for single mothers to collect the past-due child support they and their children are owed.

I am also disappointed that the Senate rejected the Schumer amendment, which would have assured that those who commit violent crimes at reproductive-health facilities against women and doctors do not escape paying their debts and fines by declaring bankruptcy.

Looking at the big picture, this bill fits a pattern of Republican proposals that turn the tide against average Americans. Last month, Republicans tipped the scales of justice against working families by limiting their ability to seek compensation for a death or injury caused by a company's negligence. On Monday, Republicans rejected a proposal to raise the minimum wage. Taken together, these actions will make life harder for working families and represent a dangerous trend that threatens average Americans.

In the past, I have voted for bankruptcy reform legislation, but today families find themselves in a much different place financially because of the costs of healthcare and military service. Congress should not punish them for things beyond their control with this unbalanced, unfair bill. American families deserve reform, not retribution.

Mr. LEVIN. Mr. President, I cannot vote for this legislation, although I support bankruptcy reform. It is clear that some people abuse the bankruptcy system. However, this bill would make it more difficult for individuals and families who have suffered genuine medical and financial misfortune to get a fresh start. Nearly half of all of those studied in a recent research effort by Harvard Law School said that illness or medical bills drove them to bankruptcy and nine out of ten have faced health problems, job loss, divorce or separation. A letter to the Chairman and ranking member of the Judiciary Committee, signed by nearly a hundred bipartisan bankruptcy law professors from law schools across the country, said, ''The bill is deeply flawed, and will harm small business, the elderly, and families with children.''

I have in the past supported reasonable bankruptcy legislation. The legislation which is before the Senate today could have been greatly improved by a number of reasonable Democratic amendments which have been offered over the last several days. However, the Republican majority has largely, on a party-line basis, rejected all amendments out of hand.

I am disappointed that we did not add some reasonable flexibility measures to the ''means test.'' The purpose of the means test is to prevent consumers who can afford to repay some of their debts, from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test. For example, the Senate defeated an amendment that would have exempted members of the armed services, veterans, and spouses of service members who die while in military service from application of the ''means test'' provisions of the bill. This would have helped them if their family or their business goes into bankruptcy. That amendment was defeated. Further, an amendment offered by Senator KENNEDY that would have exempted from the means test debtors whose severe

medical expenses have caused the financial hardship was also defeated. Senator CORZINE also offered an amendment that would have exempted economically distressed caregivers from the means test, but that amendment was also defeated by a largely party line vote. The Republican majority even rejected Senator NELSON's common sense amendment that would have exempted victims of identity theft from the means test.

Further, the Senate defeated amendments that would have protected the homes of our elderly and people forced into bankruptcy after a medical crisis.

I am also disappointed that the Senate defeated several amendments that would have closed loopholes used by wealthy individuals seeking bankruptcy protection.

The Senate had an opportunity to close an increasingly popular loophole where the very wealthy shield millions of dollars before declaring bankruptcy by setting up so-called asset protection trusts. Senator SCHUMER proposed an amendment to put an end to this abuse of the tax system by limiting the use of these trusts to shield assets only up to $125,000. The amendment was defeated 39 to 56.

The Republicans also rejected an amendment offered by Senator DURBIN to curtail the abusive practices of executives at companies like Enron and WorldCom who received millions of dollars in compensation shortly before the companies filed for bankruptcy protection. The chamber also defeated an amendment proposed by Senator AKAKA that would have provided credit card users with information to assist them in making more informed choices about their credit card use and repayment. This amendment would have helped consumers understand the consequences of their financial decisions, such as making only minimum payments, so that they can avoid the kind of financial pitfalls that lead to bankruptcy. Sadly, this amendment was also rejected.

The Schumer amendment, which in the past has been strongly supported on a bipartisan basis by the Senate, was stripped from the bill this year. The amendment, which provides that debts arising from violence and threats of violence could not be discharged in bankruptcy proceedings, should have been adopted by the Senate.

We do need bankruptcy reform, and I wish that the Senate had taken this opportunity to pass equitable reform. This bill does not achieve that goal and therefore I cannot support it.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to vote for final passage of the bankruptcy reform bill. I have been working on this piece of legislation for a long time, and I am pleased to see that we are nearing the end. This bipartisan bill has been maligned by many, and I want to set the record straight. What we are trying to do is fix a bankruptcy system that has gone awry, where individuals who have the ability to repay their debts don't do so, and the rest of us are left holding the bag.

What we have tried to do with this bill is inject some fairness into the system, whereby people who have assets and the ability to repay back their debts go into a chapter 13 repayment plan, and people who do not have any means and no ability to repay go into chapter 7. We've kept the safety net of full chapter 7 bankruptcy discharge for those who truly need it, and channeled others that can pay their creditors into a repayment plan.

This is done through a means test, which is fair and flexible enough to take into account all the unique circumstances a debtor and his family face. The means test takes into account all reasonable and necessary expenses for a debtor and his family. We provide for a court to consider ''special circumstances'', so that a debtor can show that he doesn't have the ability to repay, and should stay in chapter 7. The bill excludes from the means test poor people, those individuals who are below the median income. So if individuals can pay and they really don't have the ability to pay, they will continue to have their debts fully discharged in chapter 7 bankruptcy, while those who do have assets cannot hide them from their creditors and escape repayment.

Let me mention a couple of things this bill does not do. This bill doesn't put the credit card companies first or leaves hard working families out to dry, as some of the bill's detractors have claimed. In fact, the bill helps women and children and improves their situation when someone files for bankruptcy because it provides new priorities and tools so that child support and alimony will be collected before other creditors. We move child support up in priority, up to number one from number seven in line, and that means that they will be paid before a lot of other creditors, including the credit card companies. The bill makes staying current on child support a condition of discharge. We provide that debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony.

Domestic support obligations are automatically non-dischargeable, without the costs of litigation. The bill also makes payment of child support arrears a condition of plan confirmation. The bill provides better notice and more information to facilitate child support collection, and tracking down deadbeat parents. Further, the bill protects the name of a debtor's minor children from public disclosure in a bankruptcy case.

This bill also doesn't help credit card companies and other lenders take advantage of honest consumers, as some have alleged. In fact, the bankruptcy bill contains some new real and significant consumer protections. The bill requires credit card companies to make new disclosures that benefit customers and prohibits deceptive advertising of low introductory rates. It requires credit card companies to provide key information about how much money people owe and how long it will take to payoff their credit card debt by only making a minimum payment. The bill requires lenders to prominently disclose when late fees will be imposed, the date on which introductory or teaser rates will expire, and what the permanent rate will be after that time. The bill also prohibits lenders from canceling an account because the consumer pays the balance in full each month to avoid finance charges.

The bill also provides that consumers will be given a toll-free number to call where they can get information about how long it will take to payoff their own credit card balances if they only make minimum payments on their balance. This will educate consumers about their financial situations. In addition, the bill allows for more judicial oversight of reaffirmation agreements, to protect consumers from being pressured into onerous agreements.

The bankruptcy bill also includes a debtor's bill of rights to prevent bankruptcy mills from preying upon those who are uninformed of their rights. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill provides for penalties on creditors who fail to properly credit plan payments in bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. Finally, the bill contains credit counseling programs to help consumers avoid the cycle of indebtedness.

So with the bankruptcy bill, we've tried to close loopholes in the system and eliminate abuses. We've created new consumer protections. We've made chapter 12 permanent. We've made sure that financial markets are not subject to risk. Although the bill doesn't contain everything I would have liked to include, it is a good start to putting an end to the abuses.

It has been a long haul, but I think we are finally seeing this bill through to the end. And there are many people that I'd like to thank because they've been instrumental in getting us to this point. I've been quite busy lately as chairman of the Finance Committee, working on social security, medicare and tax reform. I take that responsibility very seriously. Because of Finance Committee markup and hearing conflicts, I have had to rely on my colleagues to manage this bill on the floor. But the job has been in very good hands.

In' particular, I appreciate Senator HATCH and the diligence that he has shown towards this bill. On more than one occasion, he made sure that the bankruptcy bill made it through the committee process so that we could have it considered on the floor. He has stepped up to the plate many a time to manage the bill, work on compromises, and keep the engines running. Senator

HATCH is a good friend and colleague, and I respect his perseverance as well as his legal expertise. I'm glad to see that all his hard work during the years has finally come to fruition. Senator HATCH has been a true stalwart through the years, and I thank him for his dedication to bankruptcy reform. I also want to thank his able staff, Perry Barber, Kevin O'Scanlin and Bruce Artim for all their help on this bill.

I especially want to thank Senator SESSIONS for being a tireless champion of bankruptcy reform here in the Senate. I have relied on his intellect and legal prowess for the last eight years that we've been working on this bill. I believe that Senator SESSIONS has brought a unique perspective to the bankruptcy bill with his dedication to eliminating abuses in the bankruptcy process. He is a firm believer that if you borrow money, you have to pay it back. So I truly am thankful for all the work that Senator SESSIONS has done, especially in managing this bill on the floor. He is one sharp lawyer, and I am honored to have him as my friend. I also want to thank his staff for their excellent work, in particular his talented Chief Counsel William Smith, Cindy Hayden, Amy Blankenship and Wendy Fleming.

I want to thank Chairman SPECTER for placing this bill at the top of the agenda in the Judiciary Committee, and for moving it so quickly and ably in this Congress. His staff, Harold Kim, Mike O'Neill, Ivy Johnson, Hannibal Kemmerer, Tim Strachan, Brendan Dunn and Ryan Triplette have been extremely helpful in getting the job done. I want to thank Majority Leader FRIST and his staff, Allen Hicks, Eric Ueland, Sharon Soderstrom and Dave Schiappa, as well as Senator MCCONNELL and his staff, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis.

I would be remiss if I didn't thank our friends on the House side, and in particular Chairman SENSENBRENNER and his staff, Phil Kiko, Susan Jensen and Ray Smietanka. Chairman SENSENBRENNER has really been a leader on bankruptcy reform, and a true driving force behind this legislation. I look forward to additional collaborations with him.

In addition, I want to thank Senator CARPER, Senator NELSON, Senator BIDEN and Senator JOHNSON. This is truly a bipartisan bill, and it couldn't have gotten done without their help.

Finally, I thank my own staff, my Finance Committee Chief of Staff and Legislative Director Kolan Davis and my Judiciary Committee Chief Counsel Rita Lari Jochum, for their hard work on the bill. I also want to thank my former staffer John McMickle, for his expertise and advice on this important piece of legislation. Good staff is hard to find, and I am proud to say that my staff is probably the best in town.

Mr. NELSON of Nebraska. Mr. President, today, I am pleased to see the passage of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill has been under consideration in Congress since before I was elected to the Senate. Since my arrival, I have been a proponent of the goals it strives to attain to ensure that abuse of America's bankruptcy laws is curtailed and that Americans who find themselves in unanticipated financial duress and have legitimate reasons to seek bankruptcy protections will have the opportunity to do so.

The goal of the bill is to prevent certain abuses of the bankruptcy system. It includes more than five hundred pages of new and reformed law, but key provisions include the following.

First and foremost, the bill will curb abuse of the bankruptcy system by implementing a means test to ensure that those who can afford to repay some portion of their unsecured debts are required to do so. Bankruptcy petitioners with relatively high incomes could be required to file under chapter 13 instead of chapter 7, and repay some of their debt out of future income. The means test takes into account the petitioner's income, debt burden, and allowable living expenses, which can vary significantly according to the debtor's place of residence and particular circumstances. Filers who cannot afford to repay at least $6,000 will be given unfettered access to chapter 7 liquidation proceedings.

The bill has a safeguard that will allow judges to consider extenuating circumstances in each bankruptcy case. After determining this means test calculation, the judge can then take any ''special circumstances'' into consideration before making a decision to shift the debtor into chapter 13. This will allow judges to consider cases where catastrophic illnesses or other unexpected financial calamities that have impacted a family or individual to the point where their debts are too heavy a load to carry. This provision made many of the amendments considered on this bill redundant.

The bill implements an important safeguard for family farmers by making permanent the extension of chapter 12 bankruptcy rules. Chapter 12 has expired every year, necessitating the need for an extension. Last year, Senator GRASSLEY and I worked in a bipartisan fashion to secure the chapter 12 extension. The bill also bumps the exemption level for family farmers from $1.5 million to nearly $3.24 million, which will be adjusted periodically for inflation.

The bill includes an important provision to safeguard our children. It contains provisions that strengthen the ability of women and children to collect child support and marital dissolution obligations. This provision will enable some families to continue to provide for the needs of their children.

Consumers also benefit from protection measures in this bill. By requiring new minimum payment and introductory rate disclosures for credit cards, consumers will be protected from surprise fees and unexpected rate fluctuation. It also contains a 'debtor's bill of rights' requiring that bankruptcy attorneys and petition preparers disclose their services and fees for those services to consumers.

It is important to note that no American will be denied access to the bankruptcy system under these reforms. However, those trying to shield their assets while abandoning their financial responsibilities will find it much more difficult to abuse the system and leave their debts for other Americans to cover through higher interest rates and fees.

As I mentioned earlier, there were many amendments to this bill offered for consideration. As I considered each of these amendments, I measured the intended impact of each amendment on the bill. In voting against many of the amendments I did so knowing that the groups of individuals singled out by the amendments, such as veterans, individuals with chronic health problems, or military personnel, were already adequately protected in the underlying bill.

I carefully considered each amendment offered to the bill on a case by case basis to determine if the amendment improved the bill. Because I believe the bill already covered most of the issues presented in the amendments, it was my determination than many of the amendments did not improve the bill and thus, I voted against them.

Again, this bill includes a safeguard for judges to consider ''special circumstances'' like medical bills, deployment to war and other circumstances. In addition to this safeguard, I supported an amendment to the bill that clarified the circumstances that might be considered by a judge. That language provided specific examples a judge might consider including ''a serious medical condition or a call to order to active duty in the armed forces.'' I voted for this amendment because it provided an improvement, in the form of clarity on special circumstances.

It is important that creditors, retailers, and small businesses who in good faith provide people with credit do not bare the brunt of the cost when debtors find themselves unable to pay. It is also critical that we protect consumers who have found themselves in unanticipated situations where their inability to meet their debts is beyond their control. And it is important to safeguard consumers against predatory lending practices.

I worked hard to find the correct balance among these competing goals on this bill and feel that the Senate did a good job in accomplishing that overriding principal. I am pleased to support this bill because I believe it provides needed improvements to our bankruptcy protection laws that will benefit every American.

Mr. AKAKA. Mr. President, I am in opposition to the bankruptcy legislation.

The financial services industry has become increasingly complex with new technology, products, and services. However, this dated legislation has not had significant changes made to it since the 107th Congress.

Predatory lending has surged since the initial development of this bankruptcy legislation. In the early 1990s, there were fewer than 200 payday lenders nationwide. Now, there are more than 20,000. Payday lenders made 100 million loans in 2003. These loans represent more than $40 billion. Most alarmingly, according to the Consumer Federation of America, interest rates on these loans begin at 390 percent.

Yet, Congress has failed to act to prevent the exploitation of working families that are short on cash due to unexpected medical expenses or other needs. I am afraid that the passage of this legislation will further reduce the risk for predatory lenders, and as a result, they will aggressively market their products even more. We must act to protect consumers from these unscrupulous lenders. I remain committed to restricting all forms of predatory lending, including payday loans, and to providing consumers with alternative affordable short-term loans.

Access to credit has increased significantly and household debt has skyrocketed as a result. Revolving debt, mostly compromised of credit card debt, has risen from $54 billion in January 1980 to more than $780 billion in November 2004. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt. This legislation tightens the grip that creditors have on consumers, but it fails to restrict the aggressive marketing practices of credit card companies.

In addition, this bankruptcy bill fails to provide adequate, timely, and meaningful disclosures for consumers. As we make it more difficult for consumers to discharge their debts in bankruptcy, we have a responsibility to provide additional information so that consumers can make better informed decisions. S. 256 includes a requirement that credit card issuers provide a generic warning about the consequences of only making the minimum payment. This provision fails to provide the detailed information for consumers on their billing statements that my amendment would have provided. My amendment would have given consumers the detailed personalized information necessary for them to make better informed choices about their credit card use and repayment. It would have required companies to inform consumers of how many years and months it would take to repay their entire balance and the total cost in interest and principal, if the consumer makes only the minimum payment. The amendment would also have required consumers to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months. Finally, my amendment would have required that creditors establish a toll-free number so that consumers can access trustworthy credit counselors. Unfortunately, this amendment was defeated.

I appreciate the willingness of the Chairman of the Banking Committee, Senator SHELBY, to continue to work with me on this very important consumer awareness issue.

I also proposed an amendment that would have required credit card companies to make concessions to individuals in debt management plans so that credit counseling could be a viable alternative to bankruptcy. Unfortunately, that amendment was also defeated.

I fear that this bill will end up significantly harming families that have suffered financially due to illnesses, the loss of a job, or the death of a loved one. I supported other reasonable amendments intended to protect low-income families, the elderly, and other vulnerable populations from this overly restrictive legislation. However, these amendments also failed.

Instead of making improvements to the legislation, an old, outdated bill has been approved by the Senate. It is low-income working families that will be hardest hit by this anti-consumer legislation. After passage of this legislation, we will need to take additional steps to prevent further exploitation of consumers by unscrupulous lenders and to improve relevant and useful information about credit to consumers. I will continue to fight to protect working families from predatory lenders and overly aggressive creditors.

Mr. KERRY. Mr. President, I strongly believe that reform of our bankruptcy laws is necessary. Too often, bankruptcy is used as an economic tool to avoid responsibility for unsound decisions and reckless spending.

Last year Americans paid interest on about $690 billion in revolving debt. Most of that debt is credit card debt. According to a Consumer Federation of America study, the average household carries between $10,000 and $12,000 in credit card debt and has nine credit cards. Consumers pay an average interest rate of 12.4 percent or approximately $85 billion annually in credit card debt interest.

Let me point out that during both the 105th and 106th Congress, I supported legislation to reform bankruptcy laws and end the abuse of the system.

However, I am unable to support the Bankruptcy Reform Act before us today because I believe it is unfair and unbalanced, does far too little to help consumers and curb creditor abuses, and includes an inflexible ''means test'' that will harm many debtors who are genuinely in need of the protections and the ''fresh start'' that bankruptcy is intended to provide.

The Bankruptcy Code currently offers two alternatives for individuals: chapter 7, under which a debtor's assets are sold and the proceeds are divided among creditors, and chapter 13, under which debtors who have a regular income develop a repayment plan for a portion of the debt. In many cases, debtors filing under chapter 13 repay a greater proportion of their debt than those filing under chapter 7.

The Bankruptcy Reform bill creates a ''means test'' that will make it more difficult for individuals earning above the median income level to erase debts under chapter 7, forcing them to file under chapter 13, which would require them to repay a greater portion of their debt. I believe that those who can afford to repay a greater portion of their debts during the bankruptcy process should be required to do so.

A narrowly targeted reform bill designed to reduce abuse of the system would provide bankruptcy judges with the discretion to dismiss or convert a case to chapter 7, but would not mandate it. It would have provided creditors the opportunity to ask for a dismissal or conversion without putting the burden on every filer to prove that he or she deserves the protections of chapter 7.

However, the ''means test'' included in the bill is inflexible, and it provides no room for a bankruptcy judge to determine whether the circumstances that led to the debtor's financial situation warrant treatment under chapter 7. A parent with a sick child bankrupted by medical bills is treated the same way as a reckless spender who ran up debt on luxury items. That's simply not right.

Again and again, Senators offered amendments that sought to increase the flexibility of the ''means test'' and offered other changes to improve many aspects of this legislation. Unfortunately, in almost every case, these amendments were defeated.

The Senate voted against giving any relief to families forced into bankruptcy by devastating health care costs. One million men and women each year turn to bankruptcy protections in the aftermath of a serious medical problem—and three-quarters of them have health insurance. Senator KENNEDY offered amendments to exempt from the means test debtors who have incurred large medical expenses and other reasonable considerations. Both his amendments were defeated.

The Senate voted against relief for children caught up in their parents' bankruptcy. And it voted against relief to help military families who are struggling with the burdens in Iraq and around the world.

The Senate defeated critical consumer protections that would simply give consumers more information and might help end some of the abusive and deceptive practices of some credit card companies. The industry pushes out an incredible 5 billion solicitations every year. Under current regulations companies can change interest rates at almost any time. They market aggressively and, I believe for some, deceptively. Only last year, the Office of the

Comptroller of the Currency issued an advisory letter warning national banks that engaged in deceptive credit card marketing and account management practices that they would face compliance and reputation risks.

Remarkably the bill does protect the wealthiest Americans by allowing them to continue hiding their assets from creditors during bankruptcy and never making good on their debt. Senator SCHUMER offered an amendment to eliminate and end this abuse, and it was defeated. And it does not stop corporate executives from looting their companies and leaving workers, stockholders, and creditors holding the bag. How can we target middle-class families and ignore the wealthiest Americans as they hide their assets?

This bill is needlessly punitive to families. It is as if we have gone out of our way to harm and not help them. For example, when a debtor receives a bankruptcy discharge, the legislation sets up new classes of nondischargeable debt that will compete for payment along with child and family support. Senator DODD offered an amendment to enable parents to better meet the needs of their children during bankruptcy. Unfortunately, it was defeated. The credit card companies beat the kids on that vote.

This bill is not only detrimental to consumers, but it also hurts our small businesses. This effort to reform our bankruptcy laws will make it more difficult for entrepreneurs to start a small business and imposes additional regulations and reporting requirements on small businesses who file for bankruptcy.

I believe we must do everything possible to ensure the viability of small businesses and to assist in fostering entrepreneurship in our economy. Regulatory and procedural burdens should be lowered for small business wherever possible. However, the bill fails to meet this challenge. Instead, this legislation promotes additional red tape and a government bureaucracy. It imposes new technical and burdensome reporting requirements that are more stringent on small businesses that file for bankruptcy than they are on big business. Further, the bill will provide creditors with greatly enhanced powers to force small businesses to liquidate their assets.

Any big business would have difficulty complying with these new burdensome reporting requirements. But think of the difficulties an entrepreneur or a mom-and-pop grocery store will have in complying with this dizzying array of new and complex requirements. These small businesses are the most likely to need, but least likely to be able to afford, the assistance of a lawyer or an accountant to comply with these new requirements. I cosponsored an amendment offered by Senator FEINGOLD to strike many of the small business provisions in the bill because they would increase reporting requirements on small businesses and make it easier for creditors to force liquidations of small business during the bankruptcy process. Unfortunately, that amendment was not adopted.

I am pleased that an amendment sponsored by Senator COLLINS and myself which will extend chapter 12 bankruptcy protections to our family fishermen, has been included in the bill. The small, family-owned fishing businesses are in serious trouble. We are making progress in rebuilding stocks; however, the cost of this progress has been carried by fishermen working Georges Bank and the Gulf of Maine. The Collins-Kerry amendment will help ensure that fishermen have the flexibility under chapter 12 of the Bankruptcy Code to wait out the rebuilding of our commercial fish stocks without back tracking on our conservation gains to date. It will help preserve the rich New England fishing heritage in Massachusetts.

Despite some provisions, which I do believe improve the system, overall this bill does not provide bankruptcy reform. Inexcusably, this bill helps creditors without helping consumers. It will let the very rich continue to hide money in homes and trusts. It gives no relief to families hit by medical bills or other financial hardship. It even puts credit card companies ahead of children when debt is allocated to creditors. I will vote no.

Mr. SESSIONS. Mr. President, today, for me, marks the culmination of 8 long years of hard work, and I am glad we have finally reached this point, where we will not only pass this bill, but the House will do so as well and the President will sign it into law. I believe that we have eliminated some abuses with this bill. I wish we could have accomplished more, but we could not let the perfect be the enemy of the good. Let me say to my colleagues, that there are some issues like homestead and asset trusts that will come back, and I look forward to working on those, but make not mistake about it, this is a good bill and I am excited to see it pass.

The policy questions we have been addressing are these:

(1) whether bankruptcy is a necessary and permitted way to recover from overburdening debt; and

(2) when is bankruptcy being abused and used as an escape valve for individuals capable of repaying some, if not all, of their debt.

The goal of this bill has never been to create additional burdens for those who have over-extended themselves for one reason or another, but to help them achieve financial responsibility after bankruptcy, so that they can avoid similar setbacks in the future.

It is clear to me that when you have statements from debtors that they are using bankruptcy to ''[take] advantage of one of the opportunities the Government offers,'' that the responsibility for slowing down the 1.6 millions consumer bankruptcy filings per year lies with Congress.

As we approached this bill, our goal was not to punish those who legitimately need the fresh start that bankruptcy offers. However, our goal was to disallow people from filing bankruptcy simply for the sake of taking advantage of a financial opportunity provided by the government. People who can afford to pay all or a part of their debts over a limited period of time should not get off Scot free.

Let me just for a moment, talk about the concept of bankruptcy. The term derived from the medieval Italian phrase ''broken bench.'' Merchants would sell their wares in the marketplace from benches. If the merchant ever reached a point where he could not pay his debts, his creditors would seize all of his wares and divide it among themselves. They did not stop with the seizing of wares, however. The creditors would break the merchants' bench, to bankrupt the merchant from reopening.

Our goal under this legislation was not and we did not ''break the bench.'' Instead of trying to prevent merchants or individuals from having a second opportunity, we accomplished just the opposite. People who need a fresh start under this bill will get one. The people who can pay some of their debts back will have to do that. Let me just highlight a few of the benefits in this bill.

First, S. 256 requires that individuals receive credit counseling prior to filing for bankruptcy. This counseling will help an individual decide if bankruptcy is the appropriate mechanism to remove debt and will help the individual understand what filing bankruptcy actually means. In many instances, the deceptive and fraudulent advertising practices of bankruptcy mills lure consumers into bankruptcy unnecessarily. Debtors should know that there are many ways to get back on their feet financially—such as entering into voluntary repayment arrangements.

To curb the practice of preying upon debtors, S. 256 establishes the Debtor's Bill of Rights. The Bill of Rights requires that debt relief organizations disclose the nature of the services they offer, explain the alternatives to filing bankruptcy, disclose the rights and obligations of debtors who file for bankruptcy, and explain the consequences of filing for bankruptcy.

Second, S. 256 establishes a means test to help determine whether people are capable of paying back a meaningful portion of their debts. This test might help the debtor avoid a Chapter 7 filing, where creditors will liquidate the individuals assets and where the debtor will have a very hard time getting creditors to extend credit to them in the future. If a debtor files under Chapter 13 and learns how to manage money under a structured repayment plan that requires some discipline, the debtor learns financial responsibility and should be able to avoid future financial turmoil. Chapter 13 bankruptcies allow debtors to keep their assets and pay back a portion of their

debts over a 5 year period. In exchange, the remaining portions of their debt are discharged and the debtor gets a fresh start.

Third, S. 256 creates new protections for consumers, especially in the area of credit cards. We require credit card companies to disclose the dangers of making only a minimum payment and we prohibit deceptive practices like advertising low introductory rates—rates used to bait and switch the credit card holder. We also require that a toll-free number be provided to consumers, where they can obtain information on how long it will take to payoff their credit card balances.

The consumer benefits of this bill are enormous. Instead of breaking the bench, this bill promotes financial responsibility. The bill vastly improves the current situation in bankruptcy for certain categories of individuals. For example, it provides special benefits to women and children, through child support and alimony, and provides parents the ability to deduct expenses such as school tuition. Make no mistake about it, while the bill provides some increased protection for unsecured creditors, it provides more protection for consumers. Logically, there is absolutely no reason to oppose it.

Mr. President, over time, many people have worked on this bill, and I would just like to take a moment to express my appreciation for their work.

First, it has been an honor to work closely with Senators GRASSLEY and HATCH to make this legislation a reality. I appreciate both of them so much and I believe they both have done yeomen's work on this bill. I thank Senator FRIST for making this bill one of his top priorities and I appreciate the leadership of Senator MCCONNELL.

I think it is appropriate that we take just a moment to express appreciation to some people who gave extraordinary effort to make this successful conclusion.

First, I note that in my office it has taken three chief counsels to get through this bill. I appreciate the hard work of Kristi Lee, my first Chief Counsel and currently a magistrate judge in the Southern District of Alabama. She did an outstanding job on this bill during the first years that this legislation was in the Senate. I also appreciate the work of my former Chief Counsel Ed Haden, who is currently doing appellate litigation at one of Alabama's outstanding law firms, Balch and Bingham. While I also appreciate the work of my current Chief Counsel, William Smith, and legislative counsels Amy Blankenship and Wendy Fleming for their efforts in this endeavor, my Deputy Chief Counsel Cindy Hayden has really given an extraordinary effort on this bill.

These fine staffers have worked night and day for two weeks to guide this bill to passage. William Smith has given every ounce of his strength to successful passage. He deserves particular praise.

Additionally, I appreciate the work of Lloyd Peeples, a former counsel of mine who has clerked for a bankruptcy judge and now serves as an AUSA in the Northern District of Alabama. He provided invaluable assistance on this bill.

Sean Costello, a former counsel of mine who now works for the Office of Justice Programs at the Department of Justice, provided outstanding work to help make this bill a reality.

Brad Harris, a former counsel of mine who now works for the Burr and Forman firm in Birmingham, never failed in working long hours and providing key assistance in seeing this bill through.

And finally, Brent Herrin, my former counsel who worked hard on cram down and other issues, did outstanding work. Brent practices tax law for the Deloitte Touche firm in Atlanta.

For eight years, these lawyers have all worked on this legislation. I know they are happy to see it come to a conclusion. I am too.

In the past I have thanked the former staffers from other offices that have worked on this bill, I will not name them individually today, save John McMickle who served Senator GRASSLEY and played a major role in helping to craft this bill. John believes in the underlying principles in this bill and I appreciate his work.

I also want to thank Rita Lari Jochum, Senator GRASSLEY's current Chief Counsel. I have seen very few staffers with her drive and dedication and she is to be commended for her efforts on this bill. Her good demeanor has been a source of calm in the storm.

I appreciate the work Perry Barber, Brendan Dunn, Kevin O'Scannlain, and Bruce Artim of Senator HATCH's staff, and the work of Harold Kim, Ivy Johnson, Tim Strachman, Mike O'Neill, Hannibal Kemmerer and Ryan Triplette of Senator SPECTER's staff.

I must also thank Dave Schiappa, Allen Hicks, Eric Ueland, Sharon Soderstrom, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis from the Leadership staffs of Senators FRIST and MCCONNELL, all who have provided tremendous assistance along the way in shaping this bill into its final form.

Mr. President, I also want to thank Chairman SENSENBRENNER and his staff for their remarkable work in getting this bill done. Phil Kilko and Susan Jensen did outstanding work on this bill.

I thank the senior Senator from Alabama, Senator SHELBY, for his work on this bill. He guarded his banking jurisdiction like a roaring lion.

This is a great day, Mr. President. I thank the Chair and yield the floor.

Mr. FRIST. Mr. President, the Senate will soon vote on final passage of the bankruptcy reform bill. This bill constitutes the most sweeping overhaul of bankruptcy law in 25 years. Like class action, bankruptcy reform curbs abuse of the legal system. I am hopeful that it will pass with a strong bipartisan vote.

Bankruptcy reform has long been in the works. Similar bills have passed the Senate in the 105th, the 106th, and 107th Congresses. Today, in the 109th we will finally deliver a package that restores fairness and personal responsibility to the bankruptcy system.

The House has agreed to take up the legislation, pass it quickly, and send it to the President for his signature.

I thank my colleagues for their hard work and leadership. In particular, I would like to thank: Senator MCCONNELL, a good friend and counselor, who has made sure that we have the votes on every amendment and who has helped secure final passage; Senator GRASSLEY, the bill's lead sponsor, who has been a tireless advocate for bankruptcy reform for nearly a decade; Chairman SPECTER, who skillfully led the bill through Committee; Senator HATCH, who, as a floor manager, has led on the substance of each and every amendment; and Senator SESSIONS, who has led debate on the floor again and again, and who lent his expertise to explain the finer points of the law.

Like class action, the bankruptcy reform bill is another example of bipartisan cooperation. Nearly every vote on every amendment has been bipartisan. Our work has been a great example of how thoughtful, bipartisan negotiation can deliver meaningful solutions for the American people.

America has always been a place for second chances. As Americans, we value innovation, reinvention and risk taking. It's part of our national DNA, part of why we are so spectacularly successful. It's also why America has long supported generous bankruptcy law. We recognize that sometimes people get in over their head, or are hit with an unexpected set back, and they need a fresh start, a second chance.

Congress has passed, and courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to ''establish uniform laws on the subject of bankruptcies throughout the United States.''

As the Supreme Court has stated, ''One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.''

Unfortunately, however, the system has veered away from its original positive intent. In the past two decades, bankruptcies have skyrocketed—actually accelerating during the economic boom years of the 80's and 90's.

Last year, we reached an historic high of over 1.6 million filings per year. The total number of bankruptcies more than doubled during the 1980's and then doubled again from 1990 to 2003. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45.

We all pay the price for these bankruptcy filings. Every bill you and I pay

includes a hidden ''bankruptcy tax'' of $400 per year per household. That tax is figured into in every phone bill, electrical bill, mortgage payment, furniture purchase, or car loan we pay.

For many people, bankruptcy has become a first step rather than a last resort. Opportunistic debtors who have the means to repay use the law to evade personal responsibility. In some cases, they even plan their bankruptcy, buying a mortgage and running up credit cards and then declaring they're broke.

With this bill, we are putting an end to the abuse. Wealthy debtors who have the means to pay some, or all, of their debt will be required to do so.

The bankruptcy bill establishes a means test based on a simple, fair principle: those who have the means should repay their debts. The legislation specifically exempts from consideration anyone who earns less than the median income in their state. It allows every filer to show ''special circumstances'' if they cannot handle a repayment plan.

And it makes clear that active duty military, low income Veterans, and debtors with serious medical conditions are protected by these safe harbor provisions.

But for those individuals who are abusing the system, they will no longer be able to hide behind the law. Nor will they be able to duck their family responsibilities. These new reforms make child support a high priority.

Most people who get into financial trouble want to do the right thing. They want to make good on their obligations and pay what they owe. But they are in over their head and need a fresh start. This legislation will not affect the vast majority of these filers. What it will do is close loopholes that have let unscrupulous debtors slip through.

Today's impending vote is a victory for fairness, compassion and common sense. It took eight years, but we are finally here.

I applaud my colleagues for their leadership. Together with class action reform, we are returning fairness and common sense to the legal system.

When the legal system gets off track, it affects us all, consumers, creators, and innovators alike. Jobs are lost. Prices go up. We pay in big and small ways. By reforming the system, we strengthen our ability to grow. We keep America moving forward.

I look forward to tackling other lawsuit abuse issues including gun manufacturer liability, medical liability, and asbestos reform. I am hopeful that we will continue to work together delivering meaningful solutions to the American people.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—74

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Baucus	Domenici	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Pryor
Biden	Frist	Reid
Bingaman	Graham	Roberts
Bond	Grassley	Salazar
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Burr	Hutchison	Smith
Byrd	Inhofe	Snowe
Carper	Inouye	Specter
Chafee	Isakson	Stabenow
Chambliss	Jeffords	Stevens
Coburn	Johnson	Sununu
Cochran	Kohl	Talent
Coleman	Kyl	Thomas
Collins	Landrieu	Thune
Conrad	Lincoln	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NAYS—25

Akaka	Feinstein	Murray
Boxer	Harkin	Obama
Cantwell	Kennedy	Reed
Corzine	Kerry	Rockefeller
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Dorgan	Levin	Wyden
Durbin	Lieberman	
Feingold	Mikulski	

NOT VOTING—1

Clinton

The bill (S. 256), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. HATCH. 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.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

Mr. BIDEN. Mr. President, I rise for two purposes. The first is to draw attention to a recent program at the Supreme Court on the work of Justice Robert Jackson and Thomas Dodd, the father of Senator CHRISTOPHER J. DODD, dealing with the International Military Tribunals at Nuremberg. I was happy to read the remarks of my colleague, Senator DODD, at the event, and I was interested to find that many of the conclusions he draws from his father's experiences remain essential to our conduct of international justice today—and, unfortunately, they are all too often forgotten.

I would first echo the remarks made by Senator DODD and salute the extraordinary work performed by Justice Robert Jackson and Thomas Dodd in their roles as the U.S. Chief Prosecutor and Deputy Prosecutor, respectively, at Nuremberg over 50 years ago.

The Nuremberg Tribunal taught us many lessons: that even in the depths of war, justice is not blind; that those who practice terror, oppression, hatred, and mass murder will be punished. Perhaps equally important, however, was the notion that they should also be afforded a trial. Indeed, the United States committed itself to overcoming the passions of the moment and reaffirming the rule of law. I believe this action set an important precedent that is still applicable today.

Critically, the Tribunal also helped record the horrific crimes of the Nazi regime so the whole world would see the brutality and understand the depravity of those unimaginable acts.

Unfortunately, crimes against humanity have occurred since the Nuremberg Tribunals, and they continue to occur today in places such as Darfur in Sudan. I believe that it is again necessary to remind ourselves of the important lessons learned over 50 years ago when Justice Robert Jackson and then Thomas Dodd—soon to be Senator Thomas Dodd—brought before the world the evidence of Nazi atrocities and said, ''This cannot stand.''

I ask unanimous consent that the remarks of Senator DODD at the Supreme Court on February 15, 2005, entitled, ''Justice Served, Lessons Learned: Robert Jackson, Thomas Dodd and the Nuremberg Trials,'' be printed in the RECORD following my comments here today.

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

(See exhibit 1.)

Mr. BIDEN. Mr. President, I encourage my colleagues to take the time to read this speech and consider this important message and its application today.

EXHIBIT 1

JUSTICE SERVED, LESSONS LEARNED: ROBERT JACKSON, THOMAS DODD, AND THE NUREMBERG TRIALS

It's a privilege to be with you in the Supreme Court Chamber, where cases that have changed the course of our nation's history have been argued and decided.